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STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1982

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 8, 1982
and General Election, November 2, 1982

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

1981–82 Regular Session
1981–82 First Extraordinary Session

Compiled by
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CHAPTER 327

An act to amend Sections 1300 and 6028 of, to add Sections 1300.1, 7011.3, and 23083.5 to, and to repeal Chapter 20.6 (commencing with Section 9891) of Division 3 of, the Business and Professions Code, to amend Sections 48320, 48321, 48322, 48323, 48324, 52616, and 56760 of, and to add Section 89910 to, the Education Code, to add Section 1607 to, and to repeal Sections 3036, 7151, 7154, 7161, 7162, and 7163 of, the Fish and Game Code, to add Section 410 to, and to repeal Article 8 (commencing with Section 6045) of Chapter 9 of Part 1 of Division 4 of, the Food and Agricultural Code, to amend Sections 11044, 11270, 11271, 11346.5, 11346.7, 11347.3, 11349.1, 12016, 14669, 15616, 15640, 15645, 16113, 18976, 19853, 19858.1, 19991.6, 20818, 26820.4, 26823, 26826, 26827, 26827.4, 26828, 26829, 26830, 26833, 26834, 26836, 26838, 26839, 26850, 26851, 26852, 26853, 26854, 26855, 26855.1, 26855.2, 26855.3, 68073.4, 68926, 68927, 72055, and 72056 of, to amend and renumber Sections 11346.51, 15641, 15642, 15643, and 15644 of, to add Sections 8174, 11346.51, 11346.52, 14669.1, 14671.6, 15641, 19859.3, 20603.5, 20819, and 37100.5 to, to add Chapter 8 (commencing with Section 19999) to Part 2.6 of Division 5 of Title 2 of, to add Chapter 12.6 (commencing with Section 54989) to Part 1 of Division 2 of Title 5 of, to add and repeal Sections 20586, 26820.5, 26826.2, 26827.2, 72055.1, and 72056.2 of, to repeal Section 15605.5 of, and to repeal and add Section 11349.11 of, the Government Code, to amend Sections 113, 255, 347, 1356, 1403, 1575.9, 1729, 25345, 25347, and 25354 of, to add Sections 115, 116, 208.3, 289.1, 289.7, 1403.1, 1729.1, 25174.1, 25174.2, 25174.6, 25174.7, and 25356.5 to, to repeal Section 255.3 of, and to repeal and add Sections 1266 and 25356 of, the Health and Safety Code, to amend Sections 226 and 226.4 of the Labor Code, to amend Sections 502 and 1023 of the Military and Veterans Code, to amend Sections 1205 and 12076 of the Penal Code, to add Section 1851.5 to the Probate Code, to amend Sections 4799.08, 4799.10, 25008, 25372, and 25375 of, and to repeal Sections 25376, 25377, and 25378 of, the Public Resources Code, to amend Sections 100.5, 1610.8, 2255, 12202, 12253, 12254, 12255, 12977, 17041, 17052.4, 17052.5, 17064.5, 17241, 17301, 17501, 17530, 17530.1, 18405.5, 25402, and 25954 of, to amend and renumber Section 23186a of, to add Sections 97.7, 98.5, 6471, 6472, 6474, 11005.75, 11005.85, 11005.86, 12253.5, 12983.5, 13304, and 26482 to, to add a chapter heading immediately preceding Section 13301, to add Chapter 2 (commencing with Section 13401), Chapter 3 (commencing with Section 13501), Chapter 4 (commencing with Section 13516), Chapter 5 (commencing with Section 13530), Chapter 6 (commencing with Section 13560), Chapter 7 (commencing with Section 13601), Chapter 8 (commencing with Section 14000), Chapter 9 (commencing with Section 14101), and Chapter 10 (commencing with Section 14301) to Part 8 of Division 2 of, to add and repeal Sections 6471.5, 6472.5, and 6474.5 of, to repeal Sections 1609.2, 1716.1, 6471 (as amended by Chapter 115 of the Statutes of 1982), 6472 (as amended by Chapter 5 of the 1981–82 First

Extraordinary Session), 6474 (as amended by Chapter 115 of the Statutes of 1982), 12252, 17055, 17302, 17303, 17304 of, and to repeal and add Article 1 (commencing with Section 1815) of Chapter 2 of Part 3 of Division 1 of, the Revenue and Taxation Code, to add Section 3016 to the Vehicle Code, to amend Sections 1808, 11201, 11265, 11452, 11453, 12200, 12201, 12201.5, 12303.5, 12303.7, 12304, 14005.9, 14017, 14017.5, 14103.4, 14109.5, 14110.1, 14153, 15200.4, 16702, 16706, 19350, and 19356 of, to add Sections 1812.5, 4638, 4657, 4658, 4677, 11265.1, 11315, 11316, 11318, 11319, 11407.3, 14132.4, and 16705.5 to, to repeal Section 11459 of, and to repeal and add Section 16147 of the Welfare and Institutions Code, to amend Section 2 of Chapter 113 of the Statutes of 1978, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. It is the intent of the Legislature in this act to make the changes in the law necessary to implement the Budget Act of 1982.

SEC. 2. Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application and license fee under this chapter shall be as follows:

(a) The application fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, clinical microbiologist's, or clinical laboratory toxicologist's license is thirty-eight dollars ($38). This fee shall be sixty-three dollars ($63) commencing on July 1, 1983.

(b) The annual renewal fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, clinical microbiologist's, or clinical laboratory toxicologist's license is thirty-eight dollars ($38). This fee shall be sixty-three dollars ($63) commencing on July 1, 1983.

(c) The application fee for a clinical laboratory technologist's or limited technologist's license is twenty-three dollars ($23). This fee shall be thirty-eight dollars ($38) commencing on July 1, 1983.

(d) The annual renewal fee for a clinical laboratory technologist's or limited technologist's license is fifteen dollars ($15). This fee shall be twenty-five dollars ($25) commencing on July 1, 1983.

(e) The application fee for a clinical laboratory license is one hundred fifty dollars ($150); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county or city and county, or an official thereof, no fee shall be required. This fee shall be two hundred forty-eight dollars ($248) commencing on July 1, 1983.

(f) The annual renewal fee for a clinical laboratory license is one hundred eighteen dollars ($118); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county, or city and county, or official thereof, no fee shall be required. This fee shall be one hundred ninety-six dollars ($196) commencing on July 1, 1983.

(g) The application fee for a trainee's license is eight dollars ($8). This fee shall be thirteen dollars ($13) commencing on July 1, 1983.

(h) The annual renewal fee for a trainee's license is five dollars ($5). This fee shall be eight dollars ($8) commencing on July 1, 1983.

(i) The application fee for a duplicate license is three dollars ($3). This fee shall be five dollars ($5) commencing on July 1, 1983.

(j) The delinquency fee is equal to the annual renewal fee.

(k) The director may establish a fee for examinations required under this chapter. The fee shall not exceed the total cost to the department in conducting the examination.

SEC. 3. Section 1300.1 is added to the Business and Professions Code, to read:

1300.1. The application and renewal fees for clinical laboratory licenses specified in Section 1300 shall be adjusted annually in the manner specified in Section 116 of the Health and Safety Code. The adjustments shall be rounded off to the nearest whole dollar amount.

SEC. 4. Section 6028 of the Business and Professions Code is amended to read:

6028. (a) The board may make appropriations and disbursements from the funds of the State Bar to pay all necessary expenses for effectuating the purposes of this chapter.

(b) Except as provided in subdivision (c), no member of the board shall receive any other compensation than his necessary expenses connected with the performance of his duties as a member of the board.

(c) Public members of the board appointed pursuant to the provisions of Section 6013.5, public members of the examining committee appointed pursuant to Section 6046.5, and public members of any disciplinary board appointed pursuant to Section 6086.6 shall receive, out of funds appropriated by the board for this purpose, fifty dollars ($50) per day for each day actually spent in the discharge of official duties, but in no event shall this payment exceed five hundred dollars ($500) per month. In addition, these public members shall receive, out of funds appropriated by the board, necessary expenses connected with the performance of their duties.

SEC. 5. Section 7011.3 is added to the Business and Professions Code, to read:

7011.3. The registrar shall not assess a civil penalty against a licensed contractor who has been assessed a specified civil penalty by the Labor Commissioner under Section 1020 or 1022 of the Labor Code for the same offense.

SEC. 6. Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code is repealed.

SEC. 7. Notwithstanding any other provisions of law, upon the repeal of Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code, the Director of the Department of Consumer Affairs or the State Treasurer shall cause the release and return of any cash deposit which has been filed in lieu of a bond by any person registered pursuant to Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code.

SEC. 8. Section 23083.5 is added to the Business and Professions Code, to read:

23083.5. (a) The board shall establish a fee for the filing of an appeal. No appeal may be filed with the board for any new case arising on or after 60 days after the operative date of this section unless the fee has been paid to the board.

(b) The fee set by the board shall be in an amount which is sufficient to pay the actual costs of the board in carrying out its duties under this chapter. The fee shall be adjusted periodically to ensure that sufficient amounts are collected to pay these costs.

(c) All fees collected by the board pursuant to this section shall be deposited in the Alcoholic Beverage Control Appeals Fund, which is hereby created. All moneys in the Alcoholic Beverage Control Appeals Fund shall be available to the board, when appropriated by the Legislature, to pay the actual costs of the board in carrying out its duties under this chapter.

SEC. 9. Section 48320 of the Education Code is amended to read:

48320. (a) In enacting this article it is the intent of the Legislature that intensive guidance and coordinated community services may be provided to meet the special needs of pupils with school attendance problems or school behavior problems.

(b) Any school attendance review board, established pursuant to this article, which determines that available public and private services are insufficient or inappropriate to correct school attendance or school behavior problems of minors may:

(1) Propose and promote the use of alternatives to the juvenile court system.

(2) Provide, in any proposed alternative, for maximum utilization of community and regional resources appropriately employed in behalf of minors prior to any involvement with the judicial system.

(3) Encourage an understanding that any alternative based on the utilization of community resources carries an inherent agency and citizen commitment directed toward the continuing improvement of such resources and the creation of resources where none exist.

SEC. 10. Section 48321 of the Education Code is amended to read:

48321. (a) A county school attendance review board may be established in each county. The county school attendance review board, if established, shall include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, and (4) the county superintendent of schools. The school district

representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

(b) Local school attendance review boards may include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, and (4) the county superintendent of schools. Other persons or group representatives shall be appointed by the county board of education.

(c) The county school attendance review board may elect pursuant to regulations adopted pursuant to Section 48324, one member as chairman with responsibility for coordinating services of the county school attendance review board.

(d) The county school attendance review board may provide for the establishment of local school attendance review boards in such number as shall be necessary to carry out the intent of this article.

(e) The county school attendance review board may provide consultant services to, and coordinate activities of, local school attendance review boards in meeting the special needs of pupils with school attendance or school behavior problems.

(f) When the county school attendance review board determines that the needs of pupils as defined in this article can best be served by a single board, the county school attendance review board may then serve as the school attendance review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that district.

(g) Nothing in this article is intended to prohibit any agreement on the part of counties to provide such services on a regional basis.

SEC. 11. Section 48322 of the Education Code is amended to read:

48322. The county school attendance review board may encourage local school attendance review boards to maintain a continuing inventory of community resources, including alternative educational programs, and to make recommendations for the improvement of such resources and programs or for the creation of new resources and programs where none exist.

SEC. 12. Section 48323 of the Education Code is amended to read:

48323. Each of the departments or agencies authorized to participate in school attendance review boards may assign personnel to represent the department or agency on a continuing basis in accordance with the intent of this article. The duties, obligations, or responsibilities which may be imposed on local governmental entities by this act are such that the related costs are incurred as a part of their normal operating procedures. The minor costs of such services may be borne by each agency or department and each or all of the participants may apply for and utilize state or federal funds as may be available.

SEC. 13. Section 48324 of the Education Code is amended to read:

48324. The county school attendance review board may adopt such rules and regulations not inconsistent with law, as are necessary for its own government and to enable it to carry out the provisions of this article. The rules and regulations may be binding upon the local school attendance review boards which are established pursuant to subdivision (d) of Section 48321.

SEC. 14. Section 52616 of the Education Code is amended to read:

52616. The Superintendent of Public Instruction shall determine an adult education block entitlement for the school districts which maintain education programs for adults. This entitlement shall be paid from appropriations to Section A of the State School Fund as a part of the principal apportionment to school districts.

(a) For each fiscal year, the adult education block entitlement shall be computed by multiplying the amount per unit of adult average daily attendance for the preceding fiscal year times the product of 1.06 and the number of units of adult average daily attendance for the programs specified in Section 41976, provided that in no event shall the amount per unit of adult average daily attendance exceed the district's prior fiscal year adult education revenue limit if it is greater than 1.06 times the prior fiscal year statewide average adult education revenue limit pursuant to subdivision (c) of Section 42237.

(b) In the event the district's adult education block entitlement computed pursuant to subdivision (a) is greater than the following calculations, the following calculations shall be the maximum block entitlement that shall be apportioned to the district:

(1) For the 1981–82 fiscal year and each fiscal year thereafter, increase the 1979–80 fiscal year adult average daily attendance for the programs specified in Section 41976 by 1.02 in the 1980–81 fiscal year, by 1.025 in the 1981–82 fiscal year, and by 1.0 in the 1982–83 fiscal year and each fiscal year thereafter.

(2) Multiply the amount determined in paragraph (1) by the district's adult revenue limit per unit of average daily attendance for the current fiscal year.

(3) This maximum block entitlement may be exceeded pursuant to the provisions of subdivision (c) when unencumbered funds are reallocated.

(c) If the adult average daily attendance of a school district in any fiscal year is less than the adult average daily attendance utilized to compute the funded district adult education block entitlement for that fiscal year, the district shall receive an apportionment only for the actual average daily attendance generated. Any surpluses accrued as a result of average daily attendance not generated in a district's block entitlement shall be reallocated after the first principal apportionment by the Superintendent of Public Instruction for meeting specific needs or unanticipated growth in adult education, or both. The receipt of reallocated funds shall not be used for computational purposes for the district's block

entitlement for subsequent fiscal years.

(d) The adult education block entitlement shall be deposited in a separate fund of the district to be known as the "adult education fund." Moneys in an adult education fund shall only be expended for adult education purposes.

Moneys received for programs other than adult education shall not be expended for adult education.

(e) Each school district which conducted adult education programs for substantially handicapped adults in activity centers, work activity centers, sheltered workshops, state hospitals, and other community settings, shall set aside an amount of money from its adult education block entitlement equal to its current fiscal year revenue limit times the average daily attendance generated in these facilities in the 1979–80 fiscal year times 1.02, subject to the following:

(1) The classes and courses offered in activity centers, work activity centers, sheltered workshops, and state hospitals shall be authorized pursuant to subdivision (e) of Section 41976.

(2) A school district shall operate classes in these facilities and shall expend all funds set aside pursuant to this subdivision and shall use all funds exclusively for those classes for substantially handicapped adults.

(3) The conditions imposed by paragraphs (1) and (2) may be waived by the Superintendent of Public Instruction upon certification from the school district that the local demand for the program is less than the required level of service.

(f) Notwithstanding any other provision of law, in determining adult education block entitlements pursuant to this section, the superintendent shall exclude from the number of units of adult average daily attendance any adult attendance in a regional occupational center or regional occupational program.

SEC. 15. Section 56760 of the Education Code is amended to read:

56760. The annual budget plan, required by subdivision (e) of Section 56200, shall comply with the following proportions, unless a waiver is granted by the superintendent pursuant to Section 56761:

(a) The district, special education services region, or county office, shall estimate the pupils to be served in the subsequent fiscal year by instructional personnel service. Such estimate shall be computed as the ratio of pupils to be served by instructional personnel service to the enrollment of pupils in kindergarten and grades 1 to 12, inclusive, of the districts and county offices participating in the plan.

(1) The ratio of pupils funded by the state by instructional personnel service during the regular school year, including pupils for whom education and services are provided for by contract with nonpublic, nonsectarian schools, to the enrollment in kindergarten and grades 1 to 12, inclusive, shall not exceed 0.10.

(2) The ratio of pupils funded by the state by instructional personnel service to the enrollment in kindergarten and grades 1 to 12, inclusive, receiving a specific instructional service shall not

exceed the following:

(A) For special classes and centers, 0.028.

(B) For resource specialist programs, 0.040.

(C) For designated instruction services, 0.042.

(b) The district, special education services region, or county office shall divide the amounts in paragraphs (1), (2), and (3) by the appropriate ratios computed pursuant to paragraph (2) of subdivision (a).

(1) For special classes and centers, 10 pupils.

(2) For resource specialist programs, 24 pupils.

(3) For designated instruction and services, 24 pupils.

(c) The district, special education services region, or county office shall divide the sum of the estimated enrollments on October 1 of the subsequent fiscal year in kindergarten and grades 1 to 12, inclusive, of each district and county office participating in the plan by each of the amounts computed pursuant to paragraphs (1), (2), and (3) of subdivision (b).

(d) Except as provided in subdivision (f), the amounts computed pursuant to subdivision (c) shall be the authorized instructional personnel service units the state will fund for the district, special education services region, or county office in the then current year. The allocation of these instructional personnel service units shall be described in the annual budget plan.

(e) The number of units of instructional services funded pursuant to this article for a local plan shall not exceed for special classes and centers, an average of one teacher and one aide per special class or center actually operated.

(f) Notwithstanding subdivision (d), for the 1982–83 fiscal year, the state-funded instructional personnel service units for the district or county office shall not exceed those instructional personnel units which were funded in the 1981–82 fiscal year pursuant to this section, and the local plan areas shall not exceed those instructional personnel units which were funded in the 1981–82 fiscal year pursuant to Section 56760.5. In determining state-funded instructional personnel units for the 1982–83 fiscal year, the superintendent shall apply the same factor to instructional personnel service units authorized in this section as is applied to the 1981–82 special education entitlements for the purpose of prorating any deficiency in schedule (d) of Item 610-101-001 of the Budget Act of 1981.

SEC. 16. Section 89910 is added to the Education Code, to read:

89910. The trustees shall adopt policies providing for the assessment of those auxiliary organizations involved in the administration of federally funded grants-in-aid and research contracts, for costs of the Washington D.C. office of the California State University. The chancellor may implement these policies at the time and in the manner deemed appropriate.

SEC. 17. Section 1607 is added to the Fish and Game Code, to read:

1607. The director is authorized to establish a schedule of fees to be charged persons required to submit proposals pursuant to Section 1601 or 1603. The fees charged shall not exceed an amount sufficient to provide for the costs of the department in administering the provisions of this chapter and shall be reimbursed to the Fish and Game Preservation Fund.

SEC. 18. Section 3036 of the Fish and Game Code is repealed.

SEC. 19. Section 7151 of the Fish and Game Code is repealed.

SEC. 20. Section 7154 of the Fish and Game Code is repealed.

SEC. 21. Section 7161 of the Fish and Game Code is repealed.

SEC. 22. Section 7162 of the Fish and Game Code is repealed.

SEC. 23. Section 7163 of the Fish and Game Code is repealed.

SEC. 24. Section 410 is added to the Food and Agricultural Code, to read:

410. It is the intent of the Legislature that the Department of Food and Agriculture, in cooperation with appropriate county officials and industry representatives, develop mutually satisfactory sources of nonstate funding to augment budget programs in the areas of pest control, county agricultural commissioners, and weights and measures.

SEC. 25. Article 8 (commencing with Section 6045) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code is repealed.

SEC. 26. Section 8174 is added to the Government Code, to read:

8174. (a) Notwithstanding any other provision of law, all of that real property designated as the site of the Governor's Mansion, and particularly described in Section 8170, shall be sold by the Department of General Services, which shall conduct a bid process on or before December 31, 1982, with the right to reject all bids. In the event all bids are rejected, the Department of General Services shall institute new bidding procedures within 30 days.

(b) The premises of the Governor's Mansion shall remain uninhabited, except for maintenance personnel, until the property is transferred. Proceeds of the sale, minus administrative expenses, shall be deposited in a special account and held for the purpose of providing a suitable residence for the Governor.

SEC. 27. Section 11044 of the Government Code is amended to read:

11044. The State Board of Control shall determine and may at any time redetermine which funds, other than the General Fund, and which functions or activities of the Department of Water Resources supported by the General Fund, shall be charged with the costs of all legal services rendered by the Attorney General or his or her deputies or assistants to the function supported by any such fund. The costs shall be fixed and determined by the Attorney General and shall be a charge against any fund or special account in the General Fund so designated by the board. Reimbursements for these charges shall be credited to and in augmentation of the appropriation for the support of the Attorney General's Office from which the cost of the services was or will be paid.

For purposes of this section, a special account or fund in the General Fund shall not be considered the General Fund.

SEC. 28. Section 11270 of the Government Code is amended to read:

11270. As used in this article "administrative costs" means the amounts expended by the Legislature, Controller, Treasurer, the State Personnel Board, the Department of General Services, the State Board of Control, the State Department of Finance, the Office of Administrative Law, the Department of Personnel Administration, the Secretary of the State and Consumer Services Agency, the Secretary of the Business, Transportation, and Housing Agency, the Secretary of the Health and Welfare Agency, the Secretary of the Resources Agency, and the Secretary of the Youth and Adult Correctional Agency, and a proration of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to the various state agencies.

SEC. 29. Section 11271 of the Government Code is amended to read:

11271. The State Board of Control shall determine and may at any time redetermine which funds, other than the General Fund, and which functions or activities of the Department of Water Resources supported by the General Fund, shall be charged a share of administrative costs as to the function supported by any such fund and the amount which shall be charged against any such fund as its fair share of administrative costs. The costs shall be a charge against any fund or special account in the General Fund so designated by the board.

For purposes of this section, a special account or fund in the General Fund shall not be considered the General Fund.

SEC. 30. Section 11346.5 of the Government Code is amended to read:

11346.5. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include:

(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific.

(3) An informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and the effect of the proposed action. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills. If the proposed action differs substantially from an existing comparable federal regulation or statute, the informative digest shall also include a brief description of the significant differences and the full citation of the federal regulations or statutes.

(4) Such other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Section 2231 of the Revenue and Taxation Code.

(6) An estimate, prepared in accordance with regulations adopted by the Department of Finance pursuant to Section 11346.51, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this section, "cost or savings" means additional costs or savings, both direct and indirect, which a public agency necessarily incurs in reasonable compliance with regulations.

(7) The name and telephone number of the agency officer to whom inquiries concerning the proposed administrative action may be directed.

(8) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(9) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(10) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(b) The agency officer designated in paragraph (7) of subdivision (a) shall make available to the public upon request the express terms of the proposed action using underline to indicate additions to, and strikeout to indicate deletions from, the California Administrative Code. The officer shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action.

(c) The provisions of this section shall not be construed in any manner which results in the invalidation of a regulation because of the alleged inadequacy of the notice content or the summary or cost estimates if there has been substantial compliance with those requirements.

SEC. 31. Section 11346.51 of the Government Code is amended and renumbered to read:

11346.52. In addition to the requirements of paragraph (3) of subdivision (a) of Section 11346.5, if the proposed action differs

substantially from an existing comparable federal regulation or statute, the informative digest shall also include a brief description of the significant differences and the full citation of the federal regulations or statutes.

Any statutory reference to paragraph (3) of subdivision (a) of Section 11346.5 shall be construed to also be a reference to this section.

SEC. 32. Section 11346.51 is added to the Government Code, to read:

11346.51. The Department of Finance shall adopt and update, as necessary, instructions for inclusion in the State Administrative Manual prescribing the methods which any agency subject to the provisions of this chapter shall use in making the determination required by paragraph (5) and the estimate required by paragraph (6) of subdivision (a) of Section 11346.5. The instructions shall include, but need not be limited to, the following:

(a) Guidelines governing the types of data or assumptions, or both, which may be used, and the methods which shall be used, to calculate the estimate of the cost or savings to public agencies mandated by the regulation for which the estimate is being prepared.

(b) The types of direct or indirect costs and savings which should be taken into account in preparing the estimate.

(c) The criteria which shall be used in determining whether the cost of a regulation must be funded pursuant to Section 2231 of the Revenue and Taxation Code or whether the cost is not reimbursable pursuant to Sections 2205, 2206, 2206.5, or subdivisions (b) and (c) of Section 2253.2 of the Revenue and Taxation Code.

(d) The format the agency preparing the estimate shall follow in summarizing and reporting its estimate of the cost or savings to state and local agencies, school districts, and in federal funding of state programs which will result from the regulation.

SEC. 33. Section 11346.52 is added to the Government Code, to read:

11346.52. The Department of Finance may review any estimate prepared pursuant to Section 11346.51 for content including, but not limited to, the data and assumptions used in its preparation.

SEC. 34. Section 11346.7 of the Government Code is amended to read:

11346.7. Every agency subject to the provisions of this chapter shall:

(a) Prepare, submit to the office with the notice of the proposed action, and make available to the public upon request, a copy of the express terms of the proposed action as described in subdivision (b) of Section 11346.5, and an initial statement of reasons for proposing the adoption or amendment of a regulation. The statement shall include but not be limited to the following criteria:

(1) The specific purpose of the regulation.

(2) The factual basis for the determination by the agency that the

regulation is reasonably necessary to carry out the purpose for which it is proposed.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, on which the agency is relying in proposing the adoption or amendment of a regulation.

(b) Prepare and submit to the office with the adopted regulation a final statement of reasons which shall include all of the following:

(1) An update of the information contained in the initial statement of reasons.

(2) A determination as to whether the regulation inposes a mandate on local agencies or school districts. If the determination is that the regulation does contain a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Section 2231 of the Revenue and Taxation Code. If the agency finds that the mandate is not reimbursable it shall state the reasons for that finding.

(3) A summary of each objection or comment made regarding the regulation, together with an explanation of how the proposed regulation has been amended to accommodate each objection or comment, or the reasons for rejecting each objection or comment.

(c) Prepare and submit to the office with the adopted regulation an updated informative digest containing a clear and concise summary of the immediately preceding laws and regulations, if any, relating directly to the adopted, amended, or repealed regulation and the effect of the adopted, amended, or repealed regulation. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills.

A state agency which adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with the provisions of this section if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with the provisions of this chapter with respect to any provisions in the regulation which the agency proposes to adopt or amend which are different from the corresponding provisions of the federal regulation.

SEC. 35. Section 11347.3 of the Government Code is amended to read:

11347.3. (a) Every agency shall maintain a file of each rulemaking which shall be deemed to be the record for that rulemaking proceeding. The file shall include:

(1) Any copies of petitions received from interested persons proposing the adoption, amendment or repeal of the regulation.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation and the statement required by Section 11346.7.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5 and Section 11346.51.

(5) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation.

(6) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation.

(7) A transcript, recording or minutes of any public hearing connected with the adoption, amendment or repeal of the regulation.

(8) The statements required by Section 11346.7.

(9) Any other information, statement, report or data which the agency is required by law to consider or prepare in connection with the adoption, amendment or repeal of a regulation.

(b) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking file. The rulemaking file or copy shall be accompanied by an index or table of contents which identifies each item contained in the rulemaking file. The index or table of contents shall include a sworn statement by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file and the copy, if submitted, is complete.

(c) The file shall be available to the public, and to the courts in connection with the review of the regulation.

SEC. 36. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The Office of Administrative Law shall review all regulations adopted pursuant to the procedure specified in Article 5 (commencing with Section 11346) of Chapter 3.5 and submitted to it for publication in the California Administrative Code Supplement and for transmittal to the Secretary of State and make determinations using the following standards:

(1) Necessity.

(2) Authority.

(3) Clarity.

(4) Consistency.

(5) Reference.

In reviewing regulations pursuant to this section the Office of Administrative Law shall restrict its review to the regulation and the record of the rulemaking proceeding. The Office of Administrative Law shall approve the regulation if it complies with the standards set forth in this section and with the provisions of this chapter.

(b) The Office of Administrative Law shall return any regulation subject to the provisions of this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (5) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The adopting agency has prepared the estimate required by paragraph (5) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, and the adopting agency fails to:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts; or

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts; or

(C) Attach a letter from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation; or

(D) Attach a letter from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Section 2231 of the Revenue and Taxation Code to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(c) The Office of Administrative Law shall notify the Department of Finance of all regulations returned pursuant to subdivision (b).

SEC. 37. Section 11349.11 of the Government Code is repealed.

SEC. 38. Section 11349.11 is added to the Government Code, to read:

11349.11. The Office of Administrative Law shall order the repeal of any regulation the Legislature directs it to repeal pursuant to paragraph (3) of subdivision (b) of Section 2255 of the Revenue and Taxation Code.

SEC. 39. Section 12016 of the Government Code is amended to read:

12016. (a) The budget required by the State Constitution to be submitted by the Governor at each regular session of the Legislature shall be submitted within the first 10 days thereof and shall contain a complete plan and itemized statement of all proposed expenditures of the state provided by existing law or recommended by him or her, and all of its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the ensuing fiscal year, together with a comparison, as to each item of revenues and expenditures, with the actual revenues

and expenditures for the last completed fiscal year and the actual revenues and expenditures for the existing fiscal year.

(b) The Governor, or the Department of Finance acting on his or her behalf, shall make appropriate changes in his or her budget request to reflect any modification in the organization or functions of state government proposed under Article 7.5 (commencing with Section 12080) of Chapter 1 of this part prior to the passage of the budget.

(c) The provisions of this section shall apply to the budgets for all the following departments and agencies only with respect to the budgets of these departments and agencies for the 1979–80, 1980–81, and 1981–82 fiscal years:

(1) Employment Development Department.
(2) State Department of Education.
(3) California State University.
(4) Department of Water Resources.
(5) Department of Transportation.
(6) State Department of Health Services.
(7) State Department of Social Services.
(8) Department of Motor Vehicles.

(d) The provisions of this section shall apply to the budgets of all other state entities only with respect to the budgets of such entities until such time as the provisions of Sections 12412.1, 13300, 13337, and 13338 become applicable to those entities.

The California State University shall not be subject to the provisions of Sections 12412.1, 13300, 13337 and 13338 related to the implementation of the California Fiscal Information System until the 1985–86 fiscal year.

This section shall remain in effect only until the provisions of Sections 12412.1, 13300, 13337, and 13338 become applicable to those other state entities, and as of that date is repealed, unless a later enacted statute which is chaptered before that date, deletes or extends the date.

SEC. 40. Section 14669 of the Government Code is amended to read:

14669. (a) The director may hire, lease, lease-purchase, or lease with the option to purchase any real or personal property for the use of any state agency, including the Department of General Services, if he deems the hiring or leasing is in the best interests of the state.

(b) The director shall solicit written bids for any lease-purchase or lease with option to purchase for real property in a newspaper of general circulation in the county in which the project is located. All bids received shall be publicly opened and the contract awarded to the lowest responsible bidder. If the director deems the acceptance of the lowest responsible bid is not in the best interest of the state, he may reject all bids.

(c) The director shall not enter into a lease-purchase agreement or a lease with the option to purchase agreement with another entity, public or private, which involves building space, unless and until the

agreement has been reviewed by the Legislative Analyst and notification has been given to the Joint Legislative Budget Committee and the committee of each house of the Legislature which considers appropriations.

SEC. 41. Section 14669.1 is added to the Government Code, to read:

14669.1. Notwithstanding any other provision of law, the Director of General Services may enter into a joint powers agreement with the San Francisco Redevelopment Agency and a land lease and a lease-purchase agreement with the joint powers agency created under the joint powers agreement for the purpose of financing and acquiring state office and parking facilities to be constructed at Golden Gate and Van Ness Avenues in the City and County of San Francisco. The Director of General Services shall notify the Chairperson of the Joint Legislative Budget Committee or his or her designee of his or her intention to enter into each of the proposed agreements at least 20 days prior to entering into the agreements.

SEC. 42. Section 14671.6 is added to the Government Code, to read:

14671.6. Notwithstanding Section 14670, the Director of General Services, with the consent of the state agency concerned, or the Trustees of the California State University with Department of Finance and Department of General Services approval, may let for up to 35 years any real or personal state property for energy conservation purposes or to permit the construction and operation of energy distribution systems, cogeneration facilities, and alternative energy supply source facilities.

Any lease, agreement, or contract relating to the construction or operation of such a facility may provide for the sale of energy, performance of energy-related work, exchange of energy, and state assistance in development and operation of the project. The lease shall contain such other provisions as the director deems appropriate.

Any lease of state property entered into pursuant to this section may be at less than market value when the director determines it will serve a statewide public purpose by implementing the policy set forth in Section 25008 of the Public Resources Code. The director or the Trustees of the California State University may lease back the property and any facilities constructed thereon if such leasing is deemed to be in the best interest of the state.

The director, or any other state agency with the approval of the director, or the Trustees of the California State University with the approval of the Department of Finance, may enter into contracts regarding the operation of such facility or the providing, selling, exchanging, buying, and use of energy in connection with a facility. Any costs or expenses incurred by the Department of General Services or any other state agency or the trustees in connection with the entering into and management of any lease, agreement, or contract entered into pursuant to this section may be reimbursed

from the rentals or other revenues from the leases, agreements, or contracts. No lease, agreement, or contract shall be entered into pursuant to this section unless the Chairperson of the Joint Legislative Budget Committee, or his or her designee, is notified of the intention to execute the lease, agreement, or contract at least 20 days prior to its execution.

Projects which may be undertaken in the 1982–83 fiscal year pursuant to this section include, but are not limited to, cogeneration and energy conservation projects at the following facilities: Metropolitan, Atascadero, Agnews, and Camarillo State Hospitals; California Institution for Men at Chino, Correctional Training Facility at Soledad; and California State Universities at San Jose, Northridge, Pomona, and San Luis Obispo.

SEC. 43. The Legislative Analyst shall study the transportation needs of state employees and the feasibility and desirability of establishing travel centers in the Department of General Services to provide centralized personnel transportation services to these employees. The Legislative Analyst shall report his findings thereon to the chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee in each house on or before January 1, 1983.

SEC. 44. Section 15605.5 of the Government Code is repealed.

SEC. 45. Section 15616 of the Government Code is amended to read:

15616. The board shall report annually to the Governor, the report to be printed at state expense. The report shall show:

(a) The assessed value of state-assessed and locally assessed real and personal property in each county and the assessed value of state-assessed and locally assessed property in each incorporated city or town.

(b) Information concerning other taxes which it administers.

(c) Such further information and suggestions as it shall deem proper.

SEC. 46. Section 15640 of the Government Code is amended to read:

15640. The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her The survey shall include a sampling of assessments from the local assessment rolls sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county. In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention. The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor. The board shall

develop procedures to carry out its duties under this section after consultation with the California Assessors Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

SEC. 47. Section 15641 of the Government Code is amended and renumbered to read:

15642. The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting such research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county showing the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilites devolving upon the county assessor, his or her requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his office, the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties, and the extent to which assessment practices are consistent with or differ from state law and regulations.

SEC. 48. Section 15641 is added to the Government Code, to read:

15641. In order to verify the information furnished to the assessor of the county, the board shall audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of such data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conduting an investigation of an assessor's office

pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine such data.

SEC. 49. Section 15642 of the Government Code is amended and renumbered to read:

15643. The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years. The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.

SEC. 50. Section 15643 of the Government Code is amended and renumbered to read:

15644. The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the data developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

SEC. 51. Section 15644 of the Government Code is amended and renumbered to read:

15646. Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and, on the opening day of each regular session, with the Senate and Assembly.

SEC. 52. Section 15645 of the Government Code is amended to read:

15645. Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

Within 90 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. Within a year after receiving a copy of the final survey report, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of such response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and

assessment appeals boards of the counties to which they relate.

SEC. 52.5. Section 16113 of the Government Code is amended to read:

16113. (a) Each county auditor shall file a claim with the Controller on or before the last day of August of each year for reimbursement to local governmental agencies for the tax loss attributable to property on the unsecured roll by reason of the reduced assessment ratio of commercial passenger fishing vessels provided for in subdivision (c) of Section 227 of the Revenue and Taxation Code.

(b) Each county auditor shall file a claim with the Controller on or before October 31 of each fiscal year for reimbursement to local governmental agencies for the tax loss attributable to property on the secured roll by reason of the reduced assessment ratio of commercial passenger fishing vessels provided for in subdivision (c) of Section 227 of the Revenue and Taxation Code.

(c) For the 1980–81 fiscal year, and fiscal years thereafter, the amount the state shall reimburse local governmental jurisdictions for revenue loss by reason of the exemption for business inventories provided for in Section 219 of the Revenue and Taxation Code, and for livestock as provided for in Section 5523 of that code, shall be computed as follows:

(1) For the 1980–81 fiscal year, the sum of the reimbursements for all local governmental jurisdictions within a county shall equal twice the amount of money that would have been allocated for the 1979–80 fiscal year to the jurisdictions if the inventory exemption reimbursement had been predicated on the jurisdictions' share of the proceeds from a countywide property tax rate of four dollars ($4) per one hundred dollars ($100) of assessed valuation including the amount these jurisdictions would have received if that amount had not been subtracted pursuant to the provisions of Section 16117, plus 170 percent of the livestock exemption reimbursement for the 1979–80 fiscal year, with the resulting total sum to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(2) For the 1981–82 fiscal year the sum of the reimbursements for all local governmental jurisdictions within a county shall be equal to the reimbursement computed for the prior fiscal year, multiplied by 1.0292.

(3) For the 1982–83 fiscal year, the sum of the reimbursements for all local governmental jurisdictions within a county shall be equal to the reimbursement computed for the prior fiscal year.

(4) For the 1983–84 fiscal year and each fiscal year thereafter, the sum of the reimbursements for all local governmental jurisdictions within a county shall be equal to the reimbursement computed for the prior fiscal year, multiplied by the lesser of the change in cost of living for the calendar year in which the fiscal year begins or the change in California per capita personal income for the calendar year preceding the beginning of the fiscal year for which

reimbursement is to be determined, the product multiplied by the change in population of the local jurisdiction for the calendar year preceding the beginning of the fiscal year for which reimbursement is to be determined.

"Change in California per capita personal income," "change in cost of living," and "change in population" shall have the meaning provided in Division 9 (commencing with Section 7900) of Title 1.

(d) With respect to the 1980–81 fiscal year and each fiscal year thereafter, each county auditor shall file a claim with the Controller on or before October 31 of each fiscal year for reimbursement to local jurisdictions for the amount computed pursuant to subdivision (c).

Proceeds received from the Controller pursuant to these claims shall be apportioned by the auditor to local governmental jurisdictions as property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(e) For purposes of this section, "State Reimbursement for Inventory Tax Factor" means:

(1) For cities, counties, and special districts: the percentage change in cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) plus the percentage change in the population of the city, county, or special district (as determined pursuant to Section 2227 or 2228 of the Revenue and Taxation Code). The percentage change in the population of a redevelopment agency shall be the percentage change in the population of the city or county in which the redevelopment agency is located.

(2) For school districts, county superintendents of schools and community college districts: the percentage change in the cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) plus the percentage change in the ADA of the school district or community college district.

(f) For the 1982–83 fiscal year, the claim filed pursuant to this section shall not include any reimbursement for any special district identified as an enterprise special district in the State Controller's Annual Report on 1979–80 Financial Transactions of Special Districts, except for districts which provide transit services or operate an airport. The amounts to be allocated by the auditor to local jurisdictions other than these districts shall equal the amounts allocated to those jurisdictions for the 1981–82 fiscal year.

SEC. 53. Section 18976 of the Government Code is amended to read:

18976. Request for and proof of eligibility for veterans' preference credits shall be submitted by the veteran to the department conducting the employment examination. The procedures and time of filing the request shall be subject to rules promulgated by the State Personnel Board, in consultation with the Department of Veterans Affairs.

SEC. 54. Section 19853 of the Government Code is amended to read:

19853. (a) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: the first day of January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the ninth day of September, the second Monday in October, the 11th day of November, the 25th day of December, the day chosen by an employee pursuant to the provisions of Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of such holidays, shall be entitled to be paid compensation or given compensating time off for such work within the meaning of this article. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee.

(b) If the provisions of this subdivision are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Any employee, who is either excluded from the definition of state employee in subdivision (e) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, shall be entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, February 12, the third Monday in February, the last Monday in May, July 4, the first Monday in September, September 9, the second Monday in October, November 11, Thanksgiving Day, December 25, and any personal holiday chosen pursuant to Section 19854. The employer may require an employee to provide five working days' advance notice before taking any personal holiday.

(2) When November 11 falls on a Saturday, full-time employees shall be entitled to the preceding Friday as a holiday with pay.

(3) When a holiday, other than November 11, falls on a Saturday, full-time employees shall accrue an additional eight hours of personal holiday credit for the fiscal year in which the holiday occurs.

(4) When a holiday falls on Sunday, full-time employees shall be entitled to the following Monday as a holiday with pay.

SEC. 55. Section 19858.1 of the Government Code is amended to read:

19858.1. (a) Except as provided in subdivision (c), following completion of six months of continuous service, for each completed calendar month of service, except as provided in Section 19858.2, each state officer and employee who is employed full time shall receive credit for vacation with pay in accordance with the following schedule:

1 month to 3 years	5/6 days per month
37 months to 10 years	1¼ days per month
121 months to 15 years	1⁵/₁₂ days per month
181 months to 24 years	1⁷/₁₂ days per month
289 months and over	1⅔ days per month

The computation of credit for the month of January, 1964, and each month thereafter shall be based upon the schedule set forth in this subdivision, except that the rate of vacation credit allowed shall not be reduced for any officer or employee employed prior to January 1, 1964. The time when vacation shall be taken shall be determined by the appointing power of the officer or employee.

(b) If the provisions of subdivision (a) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Following completion of six months of continuous service, for each completed calendar month of service, except as provided in Section 19858.2, each state officer and employee who is employed full-time and is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, shall receive credit for vacation in accordance with the following schedule:

1 month to 3 years	⅞ days per month
37 months to 10 years	1¼ days per month
121 months to 15 years	1½ days per month
181 months to 20 years	1⅝ days per month
241 months and over	1¾ days per month

The computation of credit for the month of January, 1983, and each month thereafter shall be based upon the schedule set forth in this subdivision. The time when vacation shall be taken shall be determined by the appointing power of the officer or employee.

SEC. 56. Section 19859.3 is added to the Government Code, to read:

19859.3. (a) Any permanent employee who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, shall

be granted bereavement leave with pay for the death of the employee's parent, spouse, child, grandparent, brother, sister, mother-in-law, or father-in-law, or the death of any child or close relative who resided with the employee at the time of death. The employee shall give advance notice to the employee's immediate supervisor and shall provide substantiation to support the request.

(b) For any one occurrence, the bereavement leave shall not exceed three days. However, if the death occurred outside this state, a request for two additional days of bereavement leave shall be granted, at the option of the employee, as either without pay or as a charge against any accrued sick leave credit.

(c) If additional bereavement leave is necessary, the employee may use accrued vacation, compensating time off, or take an authorized leave without pay, subject to the approval of the appointing power.

SEC. 57. Section 19991.6 of the Government Code is amended to read:

19991.6. (a) Except as provided in subdivision (c), an appointing power shall grant a leave of absence without pay for the purposes of pregnancy, childbirth or the recovery therefrom for a period as determined by the employee not exceeding one year to any permanent female employee under the jurisdiction of the appointing power. When the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(b) If the provisions of subdivision (a) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) For an employee who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, the following shall apply:

(1) An appointing power shall grant a female permanent employee's request for a leave of absence without pay for the purposes of pregnancy, childbirth, or the recovery therefrom, for a period not to exceed one year. When the employee has notified the apointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(2) An appointing power shall grant the request of a male spouse who is a permanent employee or a male parent who is a permanent employee for a leave of absence without pay for a period not to exceed one year to care for his newborn child. When the employee has notified the appointing power as to the period of the leave of

absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(3) An appointing power may grant a permanent employee's request for a leave of absence without pay for the adoption of a child for a period not to exceed one year. The employee shall provide substantiation to support the employee's request for adoption leave. When the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

SEC. 58. Chapter 8 (commencing with Section 19999) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 8. TWO-TIERED RETIREMENT SYSTEM

19999. The Legislature hereby finds and declares that retirement costs to the state and its employees would be reduced by the establishment of a two-tiered retirement system which would improve the coordination of benefits between Social Security and the Public Employees' Retirement System.

It is therefore the intent of the Legislature to authorize the development of a two-tiered retirement system.

19999.1. The Department of Personnel Administration, in conjunction with the Board of Administration of the Public Employees' Retirement System, shall develop legislation which will implement a two-tiered retirement system.

SEC. 59. Section 20586 is added to the Government Code, to read:

20586. Notwithstanding any other provisions of this part, when any county superintendent of schools determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the county superintendent of schools would be served, a school member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification or an organizational unit designated by the county superintendent of schools and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The county superintendent of schools transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he or she would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The county superintendent of schools shall certify that he or she is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least 1 percent of the job classification, as designated by

the county superintendent of schools, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The county superintendent of schools shall certify that it is his or her intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that any vacancies thus created or at least one vacancy in any position in any organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the work force of such organizational unit.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his or her retirement and the date he or she would be required to be retired because of age.

A county superintendent of schools which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the county superintendent of schools during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any county superintendent of schools unless and until the county superintendent of schools elects to be subject to the provision of this section by amendment to the contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the county superintendent of schools subject to the provisions of this section.

Notwithstanding Section 20740, an election to become subject to this section shall not exclude a county superintendent of schools from the definition of "employer" for purposes of Section 20740.

This section shall remain in effect only until September 29, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date deletes or extends that date.

SEC. 60. Section 20603.5 is added to the Government Code, to read:

20603.5. (a) Notwithstanding any other provision of law, for the 1982–83 fiscal year only, the amount of salaries and wages excluded from the normal rate of contributions shall be as follows:

(1) For a state miscellaneous member and a state industrial member whose service is not included in the federal system the amount excluded shall be one thousand one hundred fifty dollars and

thirty-three cents ($1,150.33) per month.

(2) For a state miscellaneous member and state industrial member whose service has been included in the federal system the amount excluded shall be one thousand five hundred thirteen dollars ($1,513) per month.

(3) For a state safety member whose contribution rate is 6 percent the amount excluded shall be one thousand one hundred fifty dollars and thirty-three cents ($1,150.33) per month.

(4) For a patrol member who is in collective bargaining Unit 5 the amount excluded shall be one thousand four hundred eighty-eight dollars ($1,488) per month.

(5) For a safety member under the patrol formula the amount excluded shall be eight hundred sixty-three dollars ($863) per month.

(6) For a safety member whose contribution rate is other than 6 percent the amount excluded shall be sufficient to reduce contributions after July 1, 1982, to an amount which is up to a maximum of fifty dollars ($50) less than contributions made on June 30, 1982.

(b) The provisions of subdivision (a) shall not become effective unless the Board of Administration of the Public Employees' Retirement System authorizes the transfer of funds, from the reserve against deficiencies, to the state employer accounts, in an amount equal to the amount of the reduction in contributions provided in subdivision (a).

SEC. 61. Section 20818 of the Government Code is amended to read:

20818. Notwithstanding any other provisions of this part, when the governing body of a contracting agency determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served, a local member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification, department, or other organizational unit designated by the governing body of the contracting agency and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The governing body transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The governing body shall certify that it is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least one percent of the job classification, department or organizational unit as

designated by the governing board, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The governing body shall certify that it is its intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that any vacancies thus created or at least one vacancy in any position in any department or other organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the work force of such department or organizational unit.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his retirement and the date he would be required to be retired because of age.

A governing body which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the contracting agency during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

Notwithstanding Section 20740, an election to become subject to this section shall not exclude an agency from the definition of "employer" for purposes of Section 20740.

This section shall remain in effect until September 29, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date deletes or extends that date.

SEC. 62. Section 20819 is added to the Government Code, to read:

20819. (a) The governing body of a contracting agency may establish a two-tiered retirement system developed by the board pursuant to subdivision (b).

(b) The board shall develop a two-tiered retirement system plan for contracting agencies by January 1, 1983.

(c) It is the intent of the Legislature to make a two-tiered retirement system a matter for bargaining pursuant to provisions of law relating to employer-employee relations.

SEC. 63. Section 26820.4 of the Government Code is amended to read:

26820.4. The total fee for filing of the first paper in a civil action or proceeding in the superior court, except an adoption proceeding, shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fee shall not exceed eighty-six dollars ($86).

(2) In any county where a fee is not collected for the court reporter fund, the total filing fee shall not exceed sixty-one dollars ($61).

This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030 or Section 722 of the Code of Civil Procedure.

SEC. 64. Section 26820.5 is added to the Government Code, to read:

26820.5. Notwithstanding the provisions of Section 26820.4, the total filing fees contained in paragraphs (1) and (2) of Section 26820.4 shall become effective July 1, 1982, without any action required by the board of supervisors. This section shall remain in effect until December 31, 1982, at which time it is repealed.

SEC. 65. Section 26823 of the Government Code is amended to read:

26823. When the venue in a case is changed, the fee for making up and transmission of transcript and papers is fourteen dollars ($14) and a further sum equal to the total fee for filing in the court to which the case is transferred. The clerk shall transmit the total filing fee with the papers in the case to the clerk or judge of the court to which the case is transferred.

SEC. 66. Section 26826 of the Government Code is amended to read:

26826. The total fee for filing the first paper in the action on behalf of any defendant, intervenor, respondent, or adverse party, whether separately or jointly, except for the purpose of making disclaimer shall be the sum fixed by resolution adopted pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fees shall not exceed sixty-three dollars ($63).

(2) In any county where a fee is not collected for the court reporter fund, the total fee shall not exceed thirty-five dollars ($35).

As used in this section the word "paper" does not include a stipulation for the appointment of a judge pro tempore or of a court investigator or the report made by the investigator or the declaration of a spouse filed in an order to show cause proceeding or a marital settlement agreement which is signed by a defaulted respondent and intended for incorporation in a proposed interlocutory decree of dissolution of marriage.

SEC. 67. Section 26826.2 is added to the Government Code, to

read:

26826.2. Notwithstanding the provisions of Section 26826, the total filing fees contained in paragraphs (1) and (2) of Section 26826 shall become effective July 1, 1982, without any action required by the board of supervisors. This section shall remain in effect until December 31, 1982, at which time it is repealed.

SEC. 68. Section 26827 of the Government Code is amended to read:

26827. (a) The total fee for filing the first petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary, a first account of a testamentary trustee, a petition for letters of guardianship, a petition for letters of conservatorship, a petition for compromise of minor's claim, or a petition to contest any will or codicil shall be the sum fixed by resolution pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fees shall not exceed eighty-six dollars ($86).

(2) In any county where a fee is not collected for the court reporter fund, the total fee shall not exceed sixty-one dollars ($61).

(b) The fee set forth in subdivision (a) shall also be charged for filing any subsequent petition for letters of administration, special letters of administration, letters testamentary, letters of guardianship, letters of conservatorship, or a first account of a testamentary trustee, or a petition to contest any will or codicil, in the same proceeding, by a person other than the original petitioner. When the public administrator or an employee of the State Department of Mental Health in his or her official capacity is the petitioner, he or she shall be required to pay the fee only out of the assets of the estate coming into his or her possession.

SEC. 69. Section 26827.2 is added to the Government Code, to read:

26827.2. Notwithstanding the provisions of Section 26827, the total filing fees contained in paragraphs (1) and (2) of subdivision (a) of Section 26827 shall become effective July 1, 1982, without any action required by the board of supervisors. This section shall remain in effect until December 31, 1982, at which time it is repealed.

SEC. 70. Section 26827.4 of the Government Code is amended to read:

26827.4. The fee for filing of a subsequent paper in a proceeding under the Probate Code which requires a court hearing shall be fourteen dollars ($14), except for papers for proceedings required by:

(a) Section 591.2 of the Probate Code.

(b) Accountings under Section 1120 of the Probate Code.

(c) Division 4 (commencing with Section 1400) of the Probate Code.

Objections to any papers exempt from the fee imposed by this section shall be subject to the filing fee of fourteen dollars ($14). This

section does not apply to petitions filed pursuant to subdivision (b) of Section 26827.

SEC. 71. Section 26828 of the Government Code is amended to read:

26828. The fee for issuing a writ of attachment, a writ of mandate, a writ of execution, a writ of restitution, a writ of possession, a writ of prohibition, or any writ for the enforcement of any order or judgment is three dollars and fifty cents ($3.50).

SEC. 72. Section 26829 of the Government Code is amended to read:

26829. The fee for issuing an order of sale is seven dollars ($7).

SEC. 73. Section 26830 of the Government Code is amended to read:

26830. The fee for filing any notice of motion, or any other paper requiring a hearing subsequent to the first paper, or any notice of intention to move for a new trial of any civil action or special proceeding is fourteen dollars ($14), except that there shall be no fee for filing any of the following:

(a) An amended notice of motion.

(b) An ex parte motion.

(c) A memorandum that a civil case is at issue.

(d) A demurrer to the original proceeding.

(e) A motion to strike when filed concurrently with the demurrer to the original pleading.

(f) A hearing on a petition for emancipation of a minor.

(g) Default hearings.

(h) A show-cause hearing on a petition for an injunction prohibiting harassment.

(i) A show-cause hearing on an application for an order prohibiting domestic violence.

(j) A show-cause hearing on writs of review, mandate, or prohibition.

(k) A show-cause hearing on a petition for a change of name.

(*l*) A hearing to compromise a claim of a minor, an insane or incompetent person.

(m) A stipulation by the parties for a continuance of a hearing.

(n) Order of examination of judgment debtor.

(o) Notice of motion for order determining claim of exemption.

SEC. 74. Section 26833 of the Government Code is amended to read:

26833. The fee for certifying to a copy of any paper, record, or proceeding on file in the office of the county clerk is one dollar and seventy-five cents ($1.75).

SEC. 75. Section 26834 of the Government Code is amended to read:

26834. The fee for issuing an abstract of judgment is three dollars and fifty cents ($3.50).

SEC. 76. Section 26836 of the Government Code is amended to read:

26836. For every certificate the fee for which is not otherwise fixed, the fee is one dollar and seventy-five cents ($1.75).

SEC. 77. Section 26838 of the Government Code is amended to read:

26838. The fee for a certificate required by courts of appeal or the Supreme Court on filing a notice of motion prior to the filing of the record on appeal in the reviewing court is fourteen dollars ($14).

SEC. 78. Section 26839 of the Government Code is amended to read:

26839. For an exemplification of a record or other paper on file, the fee is seven dollars ($7) and the charges allowed for copying or comparing.

SEC. 79. Section 26850 of the Government Code is amended to read:

26850. For filing and indexing all papers for which a charge is not elsewhere provided, other than papers filed in actions or special proceedings, official bonds, or certificates of appointment, the fee is two dollars and twenty-five cents ($2.25).

SEC. 80. Section 26851 of the Government Code is amended to read:

26851. For either recording or registering any license or certificate or issuing any certificate, or both, in connection with a license, required by law for which a charge is not otherwise prescribed, the fee is two dollars and twenty-five cents ($2.25).

SEC. 81. Section 26852 of the Government Code is amended to read:

26852. The fee for each certificate to the official capacity of any public official is two dollars and twenty-five cents ($2.25).

SEC. 82. Section 26853 of the Government Code is amended to read:

26853. The fee for taking an affidavit, except in criminal cases or adoption proceedings, is two dollars and twenty-five cents ($2.25).

SEC. 83. Section 26854 of the Government Code is amended to read:

26854. The fee for searching records or files is one dollar and seventy-five cents ($1.75) for each year.

SEC. 84. Section 26855 of the Government Code is amended to read:

26855. The fee for taking acknowledgment of any deed or other instrument, including the certificate, is two dollars and twenty-five cents ($2.25) for each signature.

SEC. 85. Section 26855.1 of the Government Code is amended to read:

26855.1. The fee for filing a power of attorney for an admitted surety insurer is three dollars and fifty cents ($3.50), or, if more than one name is designated, two dollars and twenty-five cents ($2.25) for each name.

SEC. 86. Section 26855.2 of the Government Code is amended to read:

26855.2. The fee for filing a financial statement of an admitted surety insurer is three dollars and fifty cents ($3.50), but nothing in this section shall be construed to require an admitted surety insurer to file such a statement.

SEC. 87. Section 26855.3 of the Government Code is amended to read:

26855.3. The fee for issuing a certificate pursuant to the third requirement of the second paragraph of Section 1057a of the Code of Civil Procedure is three dollars and fifty cents ($3.50).

SEC. 88. Section 37100.5 is added to the Government Code, to read:

37100.5. The legislative body of any city may levy any tax which may be levied by any charter city, subject to the voters' approval pursuant to Article XIII A of the Constitution of California.

SEC. 89. Chapter 12.6 (commencing with Section 54989) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 12.6. AERIAL TRAMWAY FEES

54989. (a) Notwithstanding any other provision of law which prescribes an amount or otherwise limits the amount of a fee or charge which may be levied by a local agency, a local agency shall have the authority to levy any fee or charge in connection with the operation of an aerial tramway within its jurisdiction.

(b) If any person disputes whether a fee or charge levied pursuant to subdivision (a) is reasonable, the auditor, or if there is no auditor, the fiscal officer, of the local agency shall, upon request of the legislative body of the local agency, conduct a study and determine whether such fee or charge is reasonable.

54989.1. As used in this chapter, "local agency" means a city, county, or city and county.

SEC. 90. Section 68073.4 of the Government Code is amended to read:

68073.4. Notwithstanding any other provision of law, to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section and Section 1206.8 of the Penal Code are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(a) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. These moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(b) Each city, district, or other issuing agency which elects to

receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(c) The county treasurer shall place all additional assessment amounts collected on nonparking offenses pursuant to subdivision (b) of Section 1206.8 of the Penal Code in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities, and for improvement of criminal justice automated information systems.

(d) For purposes of this section, "county criminal justice facilities" includes, but is not limited to jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(e) Deposits to the fund in accordance with subdivisions (a), (b), and (c) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

SEC. 91. Section 68926 of the Government Code is amended to read:

68926. The fee for filing a notice of appeal in a civil case appealed to a court of appeal is two hundred dollars ($200). The fee for filing a petition for a writ within the original civil jurisdiction of the Supreme Court or of a court of appeal is two hundred dollars ($200). These fees are in full, for all services, through the rendering of the judgment or the issuing of the remittitur or peremptory writ, except the fee imposed by Section 68927. The Judicial Council may make rules governing the time and method of payment of these fees, and providing for excuse therefrom in appropriate cases.

SEC. 92. Section 68927 of the Government Code is amended to read:

68927. The fee for filing a petition for hearing in a civil case in the Supreme Court after decision in a court of appeal is two hundred dollars ($200).

SEC. 93. Section 72055 of the Government Code is amended to read:

72055. The total fee for filing of the first paper in a civil action or proceeding in the municipal or justice court, shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not

exceed the following maximum amounts:

(1) In any court where a fee is collected for the court reporter fund, the total fee shall not exceed forty dollars ($40).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed twenty-nine dollars ($29).

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030 or Section 722 of the Code of Civil Procedure.

The term "total fee" as used in this section and Section 72056 includes the clerk's fee, any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any amount allocated to the court reporter fund, and the law library fee pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code.

SEC. 94. Section 72055.1 is added to the Government Code, to read:

72055.1. Notwithstanding the provisions of Section 72055, the total filing fees contained in paragraphs (1) and (2) of Section 72055 shall become effective July 1, 1982, without any action required by the board of supervisors. This section shall remain in effect until December 31, 1982, at which time it is repealed.

SEC. 95. Section 72056 of the Government Code is amended to read:

72056. The total fee for filing of the first paper in a civil action or proceeding on behalf of any party other than plaintiff shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any court where a fee is collected for the court reporter fund, the total fee shall not exceed thirty-five dollars ($35).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed seventeen dollars ($17).

SEC. 96. Section 72056.2 is added to the Government Code, to read:

72056.2. Notwithstanding the provisions of Section 72056, the total filing fees contained in paragraphs (1) and (2) of Section 72056 shall become effective July 1, 1982, without any action required by the board of supervisors. This section shall remain in effect until December 31, 1982, at which time it is repealed.

SEC. 97. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 436.53, 543, 544, 545, 546, 547, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 11887, 25694, 25696, 25697, 25817, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the department. After the first annual adjustment of fees or charges pursuant to this

section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section.

(c) The Legislative Analyst shall review any proposed adjustments pursuant to this section, and submit written comments on these proposed adjustments to the Legislature.

SEC. 98. Section 115 is added to the Health and Safety Code, to read:

115. (a) The fees or charges required to accompany an application for the issuance or renewal of any license pursuant to Sections 1403, 1575.9, and 1729 shall be adjusted annually, commencing January 1, 1984, by the percentage change printed in the Budget Act and determined by dividing the General Fund appropriation to the Licensing and Certification Division in the current state fiscal year by the General Fund appropriation to the Licensing and Certification Division in the preceding state fiscal year. Commencing January 1, 1984, the fees or charges subject to adjustment pursuant to this subdivision shall be the fees or charges which would have been payable in the prior calendar year without regard to the provisions of subdivision (b).

(b) The fees or charges required to accompany an application for the issuance or renewal of any license pursuant to Sections 1403, 1575.9, and 1729 shall also be adjusted annually, commencing January 1, 1983, by a percentage determined by dividing the total amount of federal funds available for all programs in the Licensing and Certification Division of the Department of Health Services during the federal fiscal year ending on September 30 of the year immediately preceding the effective date of the change in fees, less federal funds available for the federal fiscal year which began on October 1 of the year immediately preceding the effective date of the change in fees as indicated in any grant award letter received from the federal Department of Health and Human Services on or before November 1 of that federal fiscal year, by the total estimated revenue derived pursuant to Sections 1403, 1575.9, and 1729 for the fiscal year beginning July 1 of the year immediately preceding the effective date of the change in fees.

(c) The department shall by January 1 of each year publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 99. Section 116 is added to the Health and Safety Code, to read:

116. (a) The fees or charges required to accompany an application for the issuance or renewal of any license pursuant to Section 1300 of the Business and Professions Code shall be adjusted annually, commencing January 1, 1984, by the percentage change printed in the Budget Act and determined by dividing the General Fund appropriation to the Laboratory Field Services Section in the current state fiscal year by the General Fund appropriation to the Laboratory Field Services Section in the preceding state fiscal year. Commencing January 1, 1984, the fees or charges subject to adjustment pursuant to this subdivision shall be the fees or charges which would have been payable in the prior calendar year without regard to the provisions of subdivision (b).

(b) The fees or charges shall also be adjusted annually, commencing January 1, 1983, by a percentage determined by dividing the total amount of federal funds available for all programs in the Laboratory Field Services Section of the Department of Health Services during the federal fiscal year ending on September 30 of the year immediately preceding the effective date of the change in fees, less federal funds available for the federal fiscal year which began on October 1 of the year immediately preceding the effective date of the change in fees as indicated in any grant award letter received from the federal Department of Health and Human Services on or before November 1 of that federal fiscal year, by the total estimated revenue derived pursuant to Section 1300 of the Business and Professions Code for the fiscal year beginning July 1 of the year immediately preceding the effective date of the change in fees.

(c) The department shall by January 1 of each year publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 100. Section 208.3 is added to the Health and Safety Code, to read:

208.3. (a) The director shall adopt emergency regulations pursuant to Section 1267.7 implementing the provisions of this act, effective July 1, 1982, in accordance with the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of regulations shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regarding the duration of emergency regulations, any regulations adopted by any state agency in order to

implement the provisions of this section, shall remain in effect for a period of one year or until approved by the Office of Administrative Law.

SEC. 101. Section 255 of the Health and Safety Code is amended to read:

255. The department shall establish uniform standards of financial eligibility for treatment services under the California Children's Services Program, including a uniform formula for the repayment for services rendered by the program. Financial eligibility for treatment services under this program shall be limited to persons in families with an adjusted gross income of forty thousand dollars ($40,000) or less in the most recent tax year, as calculated for California state income tax purposes. However, the director may authorize treatment services for persons in families with higher incomes if the estimated cost of care to the family in one year is expected to exceed 20 percent of the family's adjusted gross income.

Necessary medical therapy treatment services under the California Children's Services Program rendered in the public schools shall be exempt from financial eligibility standards and family repayment requirements for such services when rendered to any handicapped child whose educational or physical development would be impeded without such services.

All counties shall use the uniform standards for financial eligibility and uniform formula for repayment established by the department. All repayments shall be used in support of the California Children's Services Program.

SEC. 102. Section 255.3 of the Health and Safety Code is repealed.

SEC. 103. Section 289.1 is added to the Health and Safety Code, to read:

289.1. The department shall develop and implement a uniform sliding fee schedule, based on family size and income, for women provided perinatal care through the Perinatal Care Services Program. The department shall not implement any schedule developed pursuant to this section sooner than 30 days after the department has provided the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house with the developed schedule.

SEC. 104. Section 289.7 is added to the Health and Safety Code, to read:

289.7. Laboratories licensed by the Department of Health Services shall not offer the maternal serum-alpha fetoprotein screening test for prenatal detection of neural tube defects of the fetus until such time as the department has developed regulations, under the authorization granted by Section 151. However, laboratories providing this testing as of the effective date of this section may continue to provide this testing until these regulations become operative.

SEC. 105. Section 347 of the Health and Safety Code is amended to read:

347. The state department shall establish, with the guidance of the advisory committee, uniform standards of financial eligibility for the services under the program established under this article.

Nothing in the eligibility standards shall prohibit services to an otherwise eligible person whose adjusted gross family income does not exceed forty thousand dollars ($40,000) per year. Persons with adjusted gross family incomes exceeding forty thousand dollars ($40,000) per year may purchase services under the program established under this article at cost. However, the director may authorize services for persons in families with higher incomes if the estimated cost of care to the family in one year is expected to exceed 20 percent of the family's adjusted gross income.

Upon the establishment of the eligibility standards the program shall establish and administer a repayment schedule based on the family's repayment obligation determined by the lesser of either:

(a) Two times the family's annual state income tax liability, less funds expended by the affected person or his or her family for health insurance premiums for the genetically handicapped person. Premiums may not be deducted for any policy providing coverage exclusively for a single disease or affliction, unless such coverage is for the genetically handicapped person's particular genetic disease or affliction.

(b) The cost of services.

On January 1, 1982, a report shall be submitted to the Legislature by the state department with respect to whether such a repayment schedule is cost effective.

All repayments shall be used in support of the program for services established under this article.

SEC. 106. Section 1266 of the Health and Safety Code is repealed.

SEC. 107. Section 1266 is added to the Health and Safety Code, to read:

1266. (a) Each new and renewal application for a license for the health facilities listed below shall be accompanied by an annual fee as set forth below.

The annual fee for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care/rehabilitation hospital, psychiatric health facility, and chemical dependency recovery hospital, based on the number of licensed beds, is as follows:

1-49 beds	$460 plus $8 per bed
50-99 beds	$850 plus $8 per bed
100 or more beds	$1,175 plus $8 per bed

The annual fee for a skilled nursing facility, intermediate care facility, and intermediate care facility/developmentally disabled, based on the number of licensed beds, is as follows:

1-49 beds	$2,000 plus $26 per bed
50-99 beds	$2,475 plus $26 per bed
100 or more beds	$3,115 plus $26 per bed

The fees provided in this subdivision shall remain in effect only until July 1, 1983.

(b) Commencing July 1, 1983, each new and renewal application for a license for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care/rehabilitation hospital, psychiatric health facility, chemical dependency recovery hospital, skilled nursing facility, intermediate care facility, and intermediate care facility/developmentally disabled shall be accompanied by an annual fee in an amount sufficient to provide revenues equal to (1) the General Fund appropriation for personal services, operating expenses and overhead to the Licensing and Certification Program as specified in the annual budget act, less revenues which will be collected pursuant to Sections 1403, 1575.9, and 1729, plus (2) the amount of federal funds budgeted for the Licensing and Certification Division in the budget act in the preceeding state fiscal year less federal funds received or credited in the preceeding state fiscal year.

Separate fees shall be established for each of the types of health facilities listed in this subdivision in an amount commensurate with their respective share of costs of administering this chapter. The department shall make adjustments to these fee levels as directed by the Legislature in the budget act.

The department shall submit to the Legislature, in conjunction with its annual budget request, a report describing program costs within the Licensing and Certification Division, and its methodology for calculating fee levels pursuant to this section.

The annual fees determined pursuant to this section shall be waived for any health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission, or officer, or by the Regents of the University of California, or by a local hospital district, city, county, or city and county.

(c) The department shall by July 30 of each year publish a list of actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 108. Section 1356 of the Health and Safety Code is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall pay to the commissioner a nonrefundable application fee in the amount of two thousand five hundred dollars ($2,500) at the time of submission of the application.

(b) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan shall pay to the commissioner on or before the 15th day of December of each year, as a reimbursement of its share of all costs and expenses, including overhead, reasonably incurred in the administration of this chapter and not otherwise recovered by the commissioner under this chapter

or from the General Fund, an amount as estimated by the commissioner for the ensuing year. The amount paid by each plan shall be five hundred dollars ($500) plus an amount up to but not exceeding twenty-six cents ($0.26) for each family unit enrolled in its plan in this state as of the preceding June 30th, and shall be fixed by the commissioner by notice to all licensed plans on or before November 15th of each year. In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support of this chapter and all reimbursements provided for in this chapter. For the purpose of this section, a family unit is a household composed of one or more individuals.

SEC. 109. Section 1403 of the Health and Safety Code is amended to read:

1403. Each application for a license or renewal of license under this chapter shall be accompanied by a fee of two hundred ninety-three dollars ($293). This fee shall be five hundred dollars ($500) commencing on July 1, 1983. Each license shall expire 12 months from its date of issuance and application for renewal accompanied by the fee shall be filed with the director not later than 10 days prior to the date of expiration.

SEC. 110. Section 1403.1 is added to the Health and Safety Code, to read:

1403.1. The fee specified in Section 1403 shall be adjusted annually in the manner specified in Section 115. The adjustments shall be rounded off to the nearest whole dollar amount.

SEC. 111. Section 1575.9 of the Health and Safety Code is amended to read:

1575.9. Each application for a new license or renewal pursuant to this chapter shall be accompanied by an annual fee of five hundred seventeen dollars ($517). This fee shall be eight hundred eighty-three dollars ($883) commencing on July 1, 1983. However, the director shall waive the fee or reduce the fee to thirty dollars ($30) for a new or renewal license for adult health care centers when the director determines that there is the expectation that not less than 50 percent of the participants during the period covered by the fee will be Medi-Cal beneficiaries or would be at risk of becoming Medi-Cal beneficiaries should institutional long-term care be required.

(b) The fee specified in this section shall be adjusted annually in the manner specified in Section 115. The adjustments shall be rounded off to the nearest whole dollar amount.

SEC. 112. Section 1729 of the Health and Safety Code is amended to read:

1729. Each application for a license under this chapter, except applications by political subdivisions, shall be accompanied by a fee for the headquarters or main office of the agency and for each additional branch office maintained and operated by the agency in the amount of five hundred twenty-six dollars ($526). This fee shall be eight hundred ninety-eight dollars ($898) commencing on July 1,

1983. If a license is denied by the state department, all but twenty-five dollars ($25) of the fee shall be returned to the applicant.

SEC. 113. Section 1729.1 is added to the Health and Safety Code, to read:

1729.1. The fee specified in Section 1729 shall be adjusted annually in the manner specified in Section 115. The adjustments shall be rounded off to the nearest whole dollar amount.

SEC. 114. Section 25174.1 is added to the Health and Safety Code, to read:

25174.1. Funds deposited in the Hazardous Waste Control Account pursuant to Section 25174 may also be used to cover costs of environmental epidemiology and health effects studies related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

SEC. 115. Section 25174.2 is added to the Health and Safety Code, to read:

25174.2. Funds deposited in the Hazardous Waste Control Account pursuant to Section 25174 may also be used to support toxic research and information programs.

SEC. 116. Section 25174.6 is added to the Health and Safety Code, to read:

25174.6. (a) Effective July 1, 1982, the fee provided pursuant to Section 25174 to be paid by the operators of onsite and offsite hazardous waste facilities shall be four dollars ($4) for every ton, or fraction thereof, of hazardous wastes which the operator disposes of on land or applies to land. The fees shall be paid within 60 days following the month of disposal. Thereafter a penalty shall be applied at a rate of 10 percent of the amount otherwise due for each month, or fraction thereof, during which fees remain unpaid.

(b) The operator of an offsite hazardous waste facility shall pay fees only for the first 2,500 tons of hazardous waste received in any one month from each site of each producer of hazardous waste.

(c) The operator of an onsite hazardous waste facility shall pay fees only for the first 2,500 tons of hazardous waste which the operator disposes of on land or applies to land in any one month.

SEC. 117. Section 25174.7 is added to the Health and Safety Code, to read:

25174.7. The fees provided in Section 25174.6 shall remain in effect until June 30, 1983.

SEC. 118. Section 25345 of the Health and Safety Code is amended to read:

25345. (a) There is hereby imposed a tax, payable annually, and to be collected by the board, upon each ton or fraction thereof, of waste and material specified in Section 25342, according to the formula specified herein. The board shall set the base tax rate upon the waste and material specified in Section 25342 in accordance with the following formula:

Base tax rate__($10,000,000-M)

$$\overline{(0.15W_1+W_2+2W_3+0.01W_4)}$$

where:

(1) "M" is the unobligated balance in the fund on June 30 of each year. (M shall equal zero (0) for June 30, 1982.) As used in this article, "unobligated balance" means all unencumbered funds in the account as of June 30, as estimated on March 1 of each year, less:

(A) Any funds in the reserve account for emergencies established by Section 25354.

(B) Any remaining principal of the loan authorized by Section 25332.

(C) Any interest due on any remaining principal of the loan authorized by Section 25332.

(D) Any funds paid as taxes for the following fiscal year.

(E) Any funds received from the federal government pursuant to the federal act.

The unobligated balance shall not be less than zero (0).

(2) W_1 is the total amount in tons of waste and material specified in subdivision (a) of Section 25344.

(3) W_2 is the total amount in tons of waste specified in subdivision (b) of Section 25344.

(4) W_3 is the total amount in tons of waste specified in subdivision (c) of Section 25344.

(5) W_4 is the total amount in tons of waste specified in subdivision (d) of Section 25344.

(b) On or before June 1 of each year, using the formula specified in subdivision (a), the board shall determine the base tax rate for the current year.

(c) The tax imposed upon each person subject to Section 25342 shall be assessed according to the following formula:

$$\text{Tax} = (\text{base tax rate}) \times (0.15\ P_1+P_2+2P_3+0.01P_4)$$

where:

(1) "Base tax rate" equals the figure determined pursuant to subdivision (a).

(2) P_1 is the amount in tons of waste and material specified by such person pursuant to subdivision (a) of Section 25342.

(3) P_2 is the amount in tons of waste specified by such person pursuant to subdivision (b) of Section 25342.

(4) P_3 is the total amount in tons of waste specified by such person pursuant to subdivision (c) of Section 25342.

(5) P_4 is the total amount in tons of waste specified by such person pursuant to subdivision (d) of Section 25342.

(d) On or before June 1 of each year, the board shall send to each person subject to Section 25342 a notice of assessment by means of registered or certified mail.

(e) On or before July 1 of each year each person subject to Section

25342 shall pay to the board the amount of such assessment as stated in the notice. The tax under this chapter shall not be imposed again on hazardous waste or extremely hazardous waste if such waste, or any portion thereof, is removed subsequently to another place for disposal; provided that such person shall have paid the amount of assessment for such waste in accordance with this section before the removal thereof.

SEC. 119. Section 25347 of the Health and Safety Code is amended to read:

25347. In no event shall the total taxes collected in any one fiscal year pursuant to this chapter exceed ten million dollars ($10,000,000) less the unobligated balance in the state account.

SEC. 120. Section 25354 of the Health and Safety Code is amended to read:

25354. (a) There is hereby continuously appropriated from the state account to the department the sum of one million dollars ($1,000,000) for each fiscal year as a reserve account for emergencies. The department may expend moneys available in the reserve account for the purpose of taking immediate corrective action necessary to remedy or prevent an imminent substantial danger to the public health or the environment caused by the release or threatened release of a hazardous substance.

(b) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a), and may enter into oral contracts, not to exceed two thousand dollars ($2,000) in obligation, when in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment. Such contracts, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work. Any such contract by the department shall be exempt from approval by the Department of General Services pursuant to the provisions of Section 14780 of the Government Code.

(c) Any disbursement made pursuant to subdivision (a) shall be reported to the Director of Finance within 72 hours of commencement of the corrective action taken.

(d) Once the appropriation made pursuant to subdivision (a) is fully expended, the director shall file a report with the Legislature if it is in session, or if it is not in session, with the Committee on Rules of the Assembly and the Senate as to the moneys expended pursuant to this section. The Legislature may appropriate moneys from the state account, in addition to those appropriated pursuant to subdivision (a), to the department for the purpose of taking corrective action pursuant to subdivision (a).

(e) Except as provided in subdivision (d), in no event shall the amount deposited in the reserve account and appropriated pursuant to this section exceed one million dollars ($1,000,000) in any fiscal

year. On June 30 of each year the unencumbered balance of the reserve shall revert to and be deposited in the state account.

SEC. 121. Section 25356 of the Health and Safety Code is repealed.

SEC. 122. Section 25356 is added to the Health and Safety Code, to read:

25356. (a) On or before April 1, 1983, the department shall adopt by regulation the criteria for the selection and for the priority ranking of sites for remedial action under this chapter. The criteria shall take into account pertinent factors relating to the public health and the environment. These factors shall include, but are not limited to, potential hazards to public health and environment, the risk of fire or explosion, toxic hazards, and the criteria established pursuant to Section 105 (8) of the federal act (42 U.S.C. 9605 (8)).

(b) The department shall publish and revise at least annually a priority ranking of sites. The list shall be transmitted to the Legislature on or before January 10 of each year. The development and publication of the priority ranking of sites shall be subject to the regulations required by subdivision (a) when they are adopted, but shall not be subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Funds appropriated to the department for remedial action shall be expended in conformance with the priority ranking of sites. Funds may be expended on more than one site on the list at any one time.

SEC. 123. Section 25356.5 is added to the Health and Safety Code, to read:

25356.5. Notwithstanding the provisions of Section 25356, on or before July 1, 1982, the department shall provide a report to the Legislature which lists the sites upon which funds are proposed to be expended during the 1982–83 fiscal year and the criteria and rationale upon which the list is based. Funds appropriated to the department from the account for remedial action for fiscal year 1982–83 shall be expended by the department only on sites listed in this report.

SEC. 124. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall semimonthly, or at the time of each payment of wages, furnish each of his employees either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) gross wages earned; (2) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (3) net wages earned; (4) the inclusive dates of the period for which the employee is paid; (5) the name of the employee or his social security number; and (6) the name and address of the employer.

(b) Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a)

shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney fees.

(c) Any employer who knowingly and intentionally violates the provisions of this section shall be subject to a fine of one hundred dollars ($100) for each pay period in which a violation occurs.

SEC. 125. Section 226.4 of the Labor Code is amended to read:

226.4. If, upon inspection or investigation, the Labor Commissioner determines that an employer is in violation of Section 226 or 226.2, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statuory provision alleged to have been violated.

SEC. 126. Section 502 of the Military and Veterans Code is amended to read:

502. The school board having jurisdiction over the school may appoint officers in the California Cadet Corps for duty in each college, community college or high school under the jurisdiction of the board. The officers shall be under the immediate control and jurisdiction of the governing body of the college, community college or high school at which they are on duty. Each officer shall hold his appointment at the pleasure of the school board, or until his successor has been appointed and qualified or his connection with the cadets is severed.

SEC. 127. Section 1023 of the Military and Veterans Code is amended to read:

1023. (a) The department may sue and be sued in any of the courts of this state. All property held by the department for the home shall be held in trust for the state and for the use and benefit of the home. The commandant shall manage the home, and administer its affairs, and subject to the direction of the Director of Veterans Affairs adopt rules and regulations for the government of the home, in conformity as nearly as possible, to the rules and regulations of the United States Veterans Administration for their facilities.

(b) The Director of General Services is authorized and empowered to lease or let any real property held by the department for the home, and not needed for any direct or immediate purpose of the home, to entities or persons and upon terms and conditions which are deemed to be in the best interests of the home. In any leasing or letting, primary consideration shall be given to the use of real property for agricultural purposes, and all money received in connection therein shall be placed in the General Fund to the credit of and shall augment the current appropriation for the support of the home.

SEC. 128. Section 1205 of the Penal Code is amended to read:

1205. (a) A judgment that the defendant pay a fine, with or without other punishment, may also direct that he be imprisoned until the fine is satisfied and may further direct that the

imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he may theretofore have been sentenced. Each of these judgments shall specify the extent of the imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars ($30) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he pay the fine within a limited time or in installments on specified dates and that in default of payment as therein stipulated he be imprisoned in the discretion of the court either until the defaulted installment is satisfied or until the fine is satisfied in full; but unless the direction is given in the judgment, the fine shall be payable forthwith.

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

(c) The defendant shall pay to the clerk of the court or the collecting agency a fee for the processing of installment accounts. This fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars ($30).

SEC. 129. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require him to sign, his legal name and affix his residence address and date of birth to the register in quadruplicate. The salesman shall affix his

signature in quadruplicate on each sheet as a witness to the signature of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, and any person violating any of the provisions of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

(c) If, on receipt of its two copies of the original sheet, it appears to the department that the purchaser resides in a district other than that to which a copy of the original sheet is required to be mailed, the department shall transmit one of its copies to the head of the municipal police department, if any, in the district in which the purchaser resides or, if none, to the sheriff of the county in which he resides.

(d) If the department determines that the purchaser is a person described in Section 12021 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

(e) The Department of Justice may charge the dealer a fee which it determines to be sufficient to reimburse the department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

SEC. 130. Section 1851.5 is added to the Probate Code, to read:

1851.5. (a) Promptly following the close of each fiscal year, the Controller shall determine the statewide average cost per investigation or review by a court investigator incurred by a county pursuant to Sections 1826, 1850, and 1851 during each fiscal year.

(b) Except as provided in Section 6102 of the Government Code, each county shall annually assess the estate of each ward and each conservatee in the county for any investigation or review conducted by a court investigator at county expense with respect to that person pursuant to Section 1826, 1850, or 1851, at the rate determined by the Controller pursuant to subdivision (a). No assessment may be collected except upon termination of the guardianship of conservatorship by death or court order. A county may waive any or all of an assessment against an estate, on the basis of hardship, where the guardianship or conservatorship is terminated by court order.

(c) Any amount otherwise owing to a county pursuant to Article

XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code for costs incurred by the county for the costs of investigation or review by court investigators pursuant to Sections 1826, 1850, and 1851 shall be reduced by the amount of any assessments actually collected during the fiscal year pursuant to subdivision (b).

SEC. 131. Section 4799.08 of the Public Resources Code is amended to read:

4799.08. The purpose of this chapter is to:

(a) Arrest the decline of our urban forest resources, facilitate the planting of trees in the city, and improve the quality of the environment in urban areas through establishment and improved management of urban forest resources.

(b) Facilitate the creation of permanent jobs in tree maintenance and related urban forestry activities in neighborhood, local, and regional urban areas.

(c) Maximize the potential of tree and vegetative cover in reducing energy consumption and producing fuel and other products.

(d) Encourage the coordination of state and local agency activities in urban forestry and related programs and encourage maximum citizen participation in their development and implementation.

(e) Prevent the introduction and spread within this state of the Dutch elm disease caused by the fungus Ceralocystis ulmi and to reduce or eliminate the loss of elm trees resulting from the disease.

SEC. 132. Section 4799.10 of the Public Resources Code is amended to read:

4799.10. (a) The department is authorized to implement a program in urban forestry to encourage better tree management and planting in urban areas, to assist the cities in seeking innovative solutions to problems such as tree maintenance and vandalism, encourage demonstration projects to maximize the benefits of urban forests, and otherwise accomplish the purposes of this chapter.

The department shall assume the primary responsibility in carrying out the intent of this chapter in cooperation with other private and public entities or persons and appropriate local, state, and federal agencies such as the Cooperative Extension, the Department of Parks and Recreation, the Department of Transportation, resource conservation districts, and the United States Forest Service.

(b) The department shall be the agent of the state and shall have full power to cooperate with those agencies of the federal government which have powers and duties concerning urban forestry, and shall perform all things necessary to secure for this state the benefits of federal urban forestry programs.

To facilitate implementation of this chapter, the director is authorized to enter into agreements and contracts with any public or private organization including local agencies having

forestry-related jurisdictional responsibilities and established and operating urban forestry programs. The director shall consult with such agencies when carrying out the provisions of this chapter in their respective areas.

(c) The director shall take all steps necessary to prevent or retard the introduction, establishment, and spread of the Dutch elm disease including the detection and removal of infected and high-hazard elm trees.

The department and the Department of Food and Agriculture shall cooperate in setting quarantine boundary lines and in enforcing the provisions relating to quarantine and pest abatement contained in Division 4 (commencing with Section 5001) of the Food and Agricultural Code when a quarantine is established with regard to the Dutch elm disease.

SEC. 133. Section 25008 of the Public Resources Code is amended to read:

25008. It is further the policy of the state and the intent of the Legislature to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources.

The Legislature finds and declares that the State of California has extensive physical and natural resources available to it at state-owned sites and facilities which can be substituted for traditional energy supplies or which lend themselves readily to the production of electricity. Due to increases in energy costs, the state's expenditures for energy have also increased, adding to the burden on California taxpayers and reducing the amount of funds available for other public purposes.

It is in the best interest of the state to use these resources when it can be demonstrated that long-term cost and energy use reduction will result, and where increased independence from other fuel sources and development of additional revenues for the state may be obtained.

Therefore, in recognition of recent and projected increases in the cost of energy from traditional sources, it is the policy of the state to use available resources at state facilities which can substitute for traditional energy supplies or produce electricity at its facilities when use or production will reduce long-term energy expenditures. Criteria used in analysis of proposed actions shall include lifecycle cost evaluation, benefit to taxpayers, reduced fossil fuel, and improved efficiency. Energy facilities at state-owned sites shall be scaled to produce optimal system efficiency and best economic advantage to the state. Energy produced may be reserved by the state to meet state facility needs or may be sold to state or nonstate purchasers.

Resources and processes which may be used to substitute for traditional energy supplies and for the purpose of electrical generation at state facilities include, but are not limited to, cogeneration, biomass, wind, geothermal, and solar technologies.

It is the intent of the Legislature that no policy in this section,

expressed or implied, be in conflict with existing state or federal regulations regarding the production or sale of electricity, and that this policy be just and reasonable to utility ratepayers.

SEC. 134. Section 25372 of the Public Resources Code is amended to read:

25372. The Legislature further finds and declares that it is the policy and goal of this state to limit the future use of motor vehicle fuel in each county during each respective month of the year to 95 percent of the per capita average amount which was used in each such county for each such respective month during the base period July 1, 1977, through June 30, 1980.

SEC. 135. Section 25375 of the Public Resources Code is amended to read:

25375. If the commission determines that motor vehicle fuel consumption in any county has exceeded the monthly goal established pursuant to Section 25372 for three consecutive months, the Governor, after proclamation of a state of emergency in that county pursuant to Section 8625 of the Government Code and subject to the provisions of the California Emergency Services Act, Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code, may implement by executive order applicable solely to that county, the motor vehicle fuel conservation measure specified in paragraph (2) of subdivision (a) of Section 25373 or any conservation measures contained in the state emergency conservation plan submitted and approved under Section 212 of the Emergency Energy Conservation Act of 1979 (P.L. 96-102) until the commission determines that motor vehicle fuel use in such county meets the monthly goal established pursuant to Section 25372, at which time such order shall be terminated.

SEC. 136. Section 25376 of the Public Resources Code is repealed.

SEC. 137. Section 25377 of the Public Resources Code is repealed.

SEC. 138. Section 25378 of the Public Resources Code is repealed.

SEC. 139. Section 97.7 is added to the Revenue and Taxation Code, to read:

97.7. (a) Notwithstanding any other provision of law, for the purposes of this chapter the computation required by Section 16713 of the Welfare and Institutions Code shall be performed by adding the amount determined pursuant to subdivision (a) of that section to the amount computed pursuant to subdivision (b) of that section. It is the intent of the Legislature that this is a declaration and clarification of existing law.

(b) Any computation made pursuant to Section 16713 of the Welfare and Institutions Code prior to the effective date of this section, other than that required by this section, shall be deemed to have complied with the provisions of Section 16713 of the Welfare and Institutions Code and the provisions of this chapter only insofar as the computation may affect apportionments for the 1981–82 fiscal year or prior fiscal years.

(c) Commencing with the 1982–83 fiscal year, the provisions of

subdivision (a) of this section shall be utilized in the apportionment of property tax revenue.

SEC. 140. Section 98.5 is added to the Revenue and Taxation Code, to read:

98.5. (a) Notwithstanding any other provision of law, for the purposes of this chapter the apportionment of property tax revenues required by Sections 95 to 98, inclusive, shall not involve the subtraction of the redevelopment increment, calculated pursuant to subdivision (b) of Section 33670 of the Health and Safety Code, from any jurisdiction which is not within the boundaries of a redevelopment project area. Any redevelopment increment which is subtracted from a jurisdiction within a redevelopment project area shall be computed on the basis of the factors or rates which are developed pursuant to Section 98. In order to determine each jurisdiction's liability for the redevelopment increment, the factors or rates for tax rate areas that are part of a redevelopment project shall be applied to the current assessed value of the taxable property within the redevelopment project area, less the assessed valuation on the assessment roll last equalized prior to the effective date of the ordinance establishing the redevelopment project. Nothing in this section shall be construed as prohibiting a county from making the allocation and payment of funds as provided for by subdivision (b) of Section 33670 of the Health and Safety Code prior to the apportionment of property tax revenues to any jurisdiction.

(b) It is the intent of the Legislature that subdivision (a) of this section is a declaration and clarification of existing law. Any computation made pursuant to Sections 95 to 98, inclusive, or pursuant to Section 33670 of the Health and Safety Code prior to the effective date of this section, which is inconsistent with the provisions of subdivision (a), shall be deemed to have complied with the provisions of subdivision (a) only insofar as the computation may affect apportionments for the 1981–82 fiscal year or prior fiscal years.

(c) Commencing with the 1982–83 fiscal year, the provisions of subdivision (a) of this section shall be utilized in the apportionment of property tax revenues.

SEC. 141. Section 100.5 of the Revenue and Taxation Code is amended to read:

100.5. (a) For the 1982–83 fiscal year, if the total of General Fund revenues and transfers for fiscal year 1982–83 plus the amount of General Fund surplus available for appropriation as of June 30, 1982, as estimated on June 10, 1982, by the organization, is more than one hundred million dollars ($100,000,000) less than the base amount, then the amount of local assistance funds for fiscal year 1982–83 shall be reduced by an amount equal to the difference between the base amount and the amount of the organization's estimate, which difference shall be known as the deflator amount.

(b) For the 1982–83 fiscal year and each fiscal year thereafter, the Governor's Budget for the prior fiscal year shall contain a base amount for the next succeeding fiscal year determined pursuant to

paragraph (2) of subdivision (g). This amount may be changed by the Legislature in the Budget Act for the prior fiscal year, in which case this revised amount shall become the base amount for purposes of this section.

(c) Commencing in 1983, the organization shall, on June 10 of each year, determine the difference between the base amount, as determined pursuant to subdivision (b), and the amount of available resources, as defined in paragraph (3) of subdivision (g), and if the amount of available resources is more than one hundred million dollars ($100,000,000) less than the base amount, then the amount of local assistance funds for the next fiscal year shall be reduced by the amount of the difference, which difference shall be known as the deflator amount.

(d) Notwithstanding any other provision of law, the Controller shall deduct 50 percent of the deflator amount from local assistance funds for local agencies in the next fiscal year, to the extent these funds are available, and 50 percent shall be deducted from local assistance funds for school entities, to the extent these funds are available. However, the deduction for all school entities statewide shall not exceed the deduction for all local agencies statewide.

(e) The reductions provided for in subdivision (a) or (c) for local agencies shall be made in the following manner:

(1) The Controller shall total the local assistance funds for local agencies based on the amounts estimated for the next fiscal year in the Governor's Budget for that fiscal year.

(2) The Controller shall then calculate a factor derived by dividing 50 percent of the deflator amount by the amount determined in paragraph (1).

(3) If the factor determined in paragraph (2) is less than 1.0, then this factor shall be multiplied by the amount of funds for each individual source of local assistance funds for local agencies. The resulting amount shall be the amount of funds retained by the state from each individual source of local assistance funds for local agencies. The remaining funds from each source of amounts shall be allocated in accordance with the statutes cited in paragraph (1) of subdivision (g).

(4) If the factor determined in paragraph (2) is equal to or greater than 1.0, then no funds from any source of local assistance funds for local agencies shall be allocated to any local agency.

(f) The reductions provided for in subdivision (a) or (c) for school entities shall be made in proportion to the amount each local educational agency's apportionment pursuant to subdivision (f) of Section 41301 or subdivision (a) of Section 84728 of the Education Code bears to 50 percent of the deflator amount provided for in subdivision (a) or (c). However, no educational agency shall receive less than one hundred twenty dollars ($120) per unit of average daily attendance from all state sources. Reductions under this paragraph for community college districts shall be determined by the Chancellor of the California Community Colleges, and for other

school entities by the Superintendent of Public Instruction.

(g) For purposes of this section:

(1) "Local assistance funds" means:

(A) For local agencies, the funds allocated by the state to local agencies pursuant to Chapter 1.5 (commencing with Section 16110) and Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code; Chapter 5 (commencing with Section 11001) of Part 5, and Chapter 9 (commencing with Section 30461) of Part 13, of Division 2 of the Revenue and Taxation Code.

(B) For school entities, the amounts allowed pursuant to subdivision (f) of Section 41301 of the Education Code to all elementary, high school and unified school districts, and county offices of education, and by the Chancellor's Office of the California Community Colleges from the amounts allowed pursuant to subdivision (a) of Section 84301 of the Education Code to all community college districts, or any appropriation in lieu thereof.

(2) "Base amount" means, for the fiscal year 1981–82, twenty-one billion five hundred million dollars ($21,500,000,000). For each fiscal year thereafter, "base amount" means the base amount for the prior year, adjusted annually by the estimated percentage change from the next fiscal year over the current fiscal year in the total state appropriations subject to limitation for purposes of Article XIII B of the California Constitution.

(3) "Available resources" means the total of General Fund revenues and transfers under current law for the next fiscal year, plus the amount of General Fund surplus available at the end of the current fiscal year, less any amounts of General Fund expenditures estimated by the organization on June 10 to be required in the next fiscal year as a replacement for federal government funding cuts in programs during the 1981–82 fiscal year.

(4) "Local agency" has the meaning provided in subdivision (a) of Section 95.

(5) "School entity" means any school district, community college district, or county office of education.

(6) "Organization" means the organization responsible for accurate and comprehensive long-range estimates, which is the Commission on State Finance, or, if this commission is subsequently abolished, it is the Joint Legislative Budget Committee, assisted by the Department of Finance and the Legislative Analyst.

(h) Notwithstanding any other provision of law, the amounts of all local assistance funds which are not paid to local agencies or school entities by operation of this section, shall be transferred from their respective funds or accounts to the General Fund for the fiscal year in which such payment is not made.

(i) The reductions provided by this section shall be effective for any fiscal year unless a provision stating a contrary finding is enacted by the Legislature on or before June 30 of each year in the Budget Act.

(j) Notwithstanding any other provision of law, the transfer

authority in subdivision (c) of Section 14002 and subdivision (d) of Section 14020 of the Education Code shall have no force or effect if the provisions of subdivision (f) are implemented.

(k) Notwithstanding any other provision of this section, no reduction shall be made pursuant to this section for the 1982–83 fiscal year.

SEC. 142. Section 1609.2 of the Revenue and Taxation Code is repealed.

SEC. 143. Section 1610.8 of the Revenue and Taxation Code is amended to read:

1610.8. After giving notice as prescribed by its rules, the county board shall equalize the assessment of property on the local roll by determining the full value of an individual property and by reducing or increasing an individual assessment as provided in this section. The full value of an individual property shall be determined without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

The applicant for a reduction in an assessment on the local roll shall establish the full value of the property by independent evidence. The records of the assessor may be used as part of such evidence.

The county board shall make a determination of the full value of each parcel for which an application for equalization is made.

SEC. 144. Section 1716.1 of the Revenue and Taxation Code is repealed.

SEC. 145. Article 1 (commencing with Section 1815) of Chapter 2 of Part 3 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 146. Article 1 (commencing with Section 1815) is added to Chapter 2 of Part 3 of Division 1 of the Revenue and Taxation Code, to read:

Article 1. Generally

1815. When valuing property, the board shall follow the provisions set forth in Section 402.5.

1816. When valuing property other than "state-assessed property" as defined in Section 108, the board shall be subject to the same valuation considerations and methods applicable to assessors as provided by this code.

SEC. 147. Section 2255 of the Revenue and Taxation Code is amended to read:

2255. (a) At least twice each calendar year the Board of Control shall report to the Legislature on the number of mandates it has found and the estimated statewide costs of such mandates. This report shall identify the statewide costs estimated for each mandate and the reasons for recommending reimbursement. The report may be included in the report required by Section 13928 of the Government Code. Immediately on receipt of the report a local government claims bill shall be introduced in the Legislature. The

local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates, pursuant to the provisions of this article.

(b) If the Legislature deletes from a local government claims bill funding for a mandate imposed either by legislation or by a regulation adopted pursuant to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, it may take one of the following courses of action:

(1) Include a finding that the legislation or regulation does not contain a mandate.

(2) Include a finding that the legislation or regulation contains a mandate but that the mandate is not reimbursable.

(3) Include a finding that the regulation contains a reimbursable mandate and direct that the Office of Administrative Law shall order the repeal of the regulation in accordance with Section 11349.11 of the Government Code.

(4) Include a finding that the legislation or regulation contains a reimbursable mandate and direct that the legislation or regulation shall not be enforced against local agencies and school districts until funds otherwise become available.

(5) Include a finding that the Legislature cannot determine if the legislation or regulation contains a reimbursable mandate and that the legislation or regulation shall remain in effect and enforceable against local agencies and school districts unless a court determines that the legislation or regulation contains a reimbursable mandate, in which case the effectiveness of the legislation or regulation shall be suspended and the legislation or regulation shall not be enforced against local agencies and school districts until funding becomes available.

(6) Include a finding that the Legislature cannot determine if the legislation or regulation contains a reimbursable mandate and that the legislation or regulation shall be suspended and shall not be enforced against local agencies and school districts until a court determines whether the legislation or regulation contains a reimbursable mandate.

SEC. 148. Section 6471 of the Revenue and Taxation Code, as amended by Chapter 115 of the Statutes of 1982, is repealed.

SEC. 149. Section 6471 is added to the Revenue and Taxation Code, to read:

6471. (a) Except as provided in subdivision (b), upon written notification by the board, any person whose estimated measure of tax liability under this part averages seventeen thousand dollars ($17,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period. Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons

who are successors to a business which was in operation during all of that quarterly period, may satisfy the above prepayment requirement by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made. Prepayment shall be made during the quarterly period designated by the board and during each succeeding quarterly period until further notified in writing by the board.

(b) Notwithstanding subdivision (a), upon written notification by the board, any person whose estimated measure of tax liability under this part averages two hundred thousand dollars ($200,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, make the following prepayments:

(1) In the first, third, and fourth calendar quarters, the person shall prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter, the person shall prepay a first prepayment of 90 percent of the amount of state and local tax liability for the first monthly period of each quarterly period and a second prepayment of either:

(i) 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period plus 90 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period; or

(ii) 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period plus 50 percent of 90 percent of the amount of the liability for the second monthly period of the quarterly period.

Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business which was in operation during all of that quarterly period, may satisfy the above prepayment requirements for the first, third, and fourth calendar quarters by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

The persons may satisfy their prepayment requirements for the second calendar quarter by making a first prepayment of an amount equal to one-third of the measure of tax liability reported, and a second prepayment of an amount equal to one-half of the measure of tax liability reported, on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

Prepayments shall be made during the quarterly periods

designated by the board and during each succeeding quarterly periods until further notified in writing by the board.

(c) This section shall become operative on May 1, 1983, only if Section 6471.5 is repealed as of that date.

SEC. 150. Section 6471.5 is added to the Revenue and Taxation Code, to read:

6471.5. (a) Upon written notification by the board, any person whose estimated measure of tax liability under this part averages seventeen thousand dollars ($17,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month make prepayments as prescribed in this section.

(1) In the first, third, and fourth calendar quarters, the person shall prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter, the person shall prepay a first prepayment of 90 percent of the amount of state and local tax liability for the first monthly period of each quarterly period and a second prepayment of either:

(A) 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period plus 90 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period; or

(B) 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period plus 50 percent of 90 percent of the amount of the liability for the second monthly period of the quarterly period.

(b) Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business which was in operation during all of that quarterly period, may satisfy the above monthly prepayment requirements for the first, third, and fourth calendar quarters by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

The persons may satisfy their prepayment requirements for the second calendar quarter by making a first prepayment of an amount equal to one-third of the measure of tax liability reported, and a second prepayment of an amount equal to one-half of the measure of tax liability reported, on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

Prepayments shall be made during the quarterly periods designated by the board and during each succeeding quarterly periods until further notified in writing by the board.

(c) This section shall remain in effect only until May 1, 1983, and as of that date is repealed, unless either of the following two events

occur:

(1) On April 15, 1983, the state organization responsible for accurate and comprehensive long-range estimates projects that on June 30, 1983, the amount in the contingency reserve for economic uncertainties will be less than a prudent reserve, as determined by the organization, but in no event to exceed four hundred sixty-six million dollars ($466,000,000).

(2) The organization has made that projection prior to April 15, 1983, and, pursuant to executive orders issued by the Governor, or statutes enacted, or both, on or after July 1, 1982, and on or before April 15, 1983, one hundred forty million dollars ($140,000,000) in reduced expenditures or increased revenues, or both, will have been realized by June 30, 1983.

SEC. 151. Section 6472 of the Revenue and Taxation Code, as amended by Chapter 5 of the 1981–82 First Extraordinary Session, is repealed.

SEC. 152. Section 6472 is added to the Revenue and Taxation Code, to read:

6472. (a) For purposes of subdivision (a) of Section 6471, prepayment shall be accompanied by a report of the amount of such prepayment in a form prescribed by the board and shall be made to the board on or before the 23rd day next following the end of each of the first two monthly periods of each quarterly period.

(b) For purposes of subdivision (b) of Section 6471, prepayment shall be accompanied by a report of the amount of such prepayment in a form prescribed by the board and shall be made to the board as follows:

(1) In the first, third, and fourth calendar quarters, on or before the 23rd day next following the end of each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter as follows:

(A) The first prepayment on or before the 23rd day next following the end of the first monthly period of each quarterly period.

(B) The second prepayment on or before the 23rd day of the third monthly period of each quarterly period for the second monthly period and the first 15 days of the third monthly period of each quarterly period.

(c) This section shall become operative on May 1, 1983, only if Section 6472.5 is repealed as of that date.

SEC. 153. Section 6472.5 is added to the Revenue and Taxation Code, to read:

6472.5. For purposes of Section 6471.5, prepayment shall be accompanied by a report of the amount of such prepayment in a form prescribed by the board and shall be made to the board as follows:

(a) In the first, third, and fourth calendar quarters, on or before the 23rd day next following the end of each of the first two monthly periods of each quarterly period.

(b) In the second calendar quarter as follows:

(1) The first prepayment on or before the 23rd day next following the end of the first monthly period of each quarterly period.

(2) The second prepayment on or before the 23rd day of the third monthly period of each quarterly period for the second monthly period and the first 15 days of the third monthly period of each quarterly period.

(c) This section shall remain in effect only until May 1, 1983, and as of that date is repealed, unless, either of the following two events occur:

(1) On April 15, 1983, the state organization responsible for accurate and comprehensive long-range estimates projects that on June 30, 1983, the amount in the contingency reserve for economic uncertainties will be less than a prudent reserve, as determined by the organization, but in no event to exceed four hundred sixty-six million dollars ($466,000,000).

(2) The organization has made that projection prior to April 15, 1983, and pursuant to executive orders issued by the Governor, or statutes enacted, or both, on or after July 1, 1982, and on or before April 15, 1983, one hundred forty million dollars ($140,000,000) in reduced expenditures or increased revenues, or both, will have been realized by June 30, 1983.

SEC. 154. Section 6474 of the Revenue and Taxation Code, as amended by Chapter 115 of the Statutes of 1982, is repealed.

SEC. 155. Section 6474 is added to the Revenue and Taxation Code, to read:

6474. In determining whether a person's estimated measure of tax liability averages seventeen thousand dollars ($17,000) or more per month for purposes of subdivision (a) of Section 6471, or two hundred thousand dollars ($200,000) or more per month for purposes of subdivision (b) of Section 6471, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

This section shall become operative on May 1, 1983, only if Section 6474.5 is repealed as of that date.

SEC. 156. Section 6474.5 is added to the Revenue and Taxation Code, to read:

6474.5. Notwithstanding Section 6474, in determining whether a person's estimated measure of tax liability averages seventeen thousand dollars ($17,000) or more per month for purposes of Section 6471.5, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

This section shall remain in effect only until May 1, 1983, and as of that date is repealed, unless, either of the following two events occur:

(1) On April 15, 1983, the state organization responsible for accurate and comprehensive long-range estimates projects that on June 30, 1983, the amount in the contingency reserve for economic uncertainties will be less than a prudent reserve, as determined by the organization, but in no event to exceed four hundred sixty-six

million dollars ($466,000,000).

(2) The organization has made that projection prior to April 15, 1983, and pursuant to executive orders issued by the Governor, or statutes enacted, or both, on or after July 1, 1982, and on or before April 15, 1983, one hundred forty million dollars ($140,000,000) in reduced expenditures or increased revenues, or both, will have been realized by June 30, 1983.

SEC. 157. Section 11005.75 is added to the Revenue and Taxation Code, to read:

11005.75. (a) For the 1982–83 fiscal year, the Department of Finance shall reduce the amounts apportioned to each city pursuant to Section 11005, by an amount determined pursuant to subdivision (b).

(b) (1) the Department of Finance shall determine the percentage that "state assistance payments", as defined in Section 95, for each city, bears to the total of all such amounts for all cities.

(2) The Department of Finance shall apply the percentage determined in paragraph (1) for each city to $345,500,000.

(3) The Department of Finance shall determine the percentage that the January 1, 1982, population of each city (as determined by the Department) bears to the total population of all cities.

(4) The Department of Finance shall apply the percentage determined in (3) for each city to $345,500,000.

(5) The Department of Finance shall compute for each city an amount equal to its state assistance payments, as defined in Section 95, multiplied by the quotient of the city's 1982–83 assessed valuation divided by the city's 1978–79 assessed valuation.

(6) The amount computed in paragraph (5) for each city shall be reduced by an amount equal to the sum of the amounts which would have been received by the city from state subventions in the 1981–82 fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and the amount received pursuant to subdivision (c) of Section 26483 had those provisions been effective for 1981–82.

(7) The amount of reduction pursuant to subdivision (a) shall be the lesser of the amounts determined in paragraphs (2), (4), and (6).

(8) For any city identified by Section 13 of Chapter 101 of the Statutes of 1981, the amount determined pursuant to paragraph (7) shall be reduced by the amount provided in Section 13 of Chapter 101 of the Statutes of 1981, multiplied by 1.5.

(9) For any city described in subdivision (b) of Section 54780.2 of the Government Code, as added by Chapter 205 of the Statutes of the 1982 Regular Session, the amount determined pursuant to paragraph (7) shall be multiplied by 0.7421964.

(c) The amount of reduction made pursuant to subdivision (a) shall be deposited in the General Fund.

SEC. 158. Section 11005.85 is added to the Revenue and Taxation Code, to read:

11005.85. (a) For the 1982–83 fiscal year, the Department of

Finance shall reduce the amounts apportioned to each county and city and county pursuant to Section 11005, by an amount determined pursuant to subdivision (b).

(b) (1) The Department of Finance shall determined the percentage that "state assistance payments", as defined in Section 95, for each county and city and county, bears to the total of all such amounts for all such entities.

(2) The Department of Finance shall apply the percentage determined in paragraph (1) for each county and city and county to $61,000,000.

(3) The Department of Finance shall determine the percentage that the January 1, 1982, population of each county and city and county (as determined by the Department) bears to the total population of all counties and cities and counties.

(4) The Department of Finance shall apply the percentage determined in (3) for each county and city and county to $61,000,000.

(5) The Department of Finance shall compute for each county and city and county an amount equal to its state assistance payments, as defined in Section 95, multiplied by the quotient of its 1982–83 assessed valuation divided by its 1978–79 assessed valuation, plus the 1982–83 value of local fiscal relief for health and welfare as determined by the Department of Finance.

(6) The amount computed in paragraph (5) for each county and city and county shall be reduced by an amount equal to the sum of the amounts which would have been received by the county or city and county from state subventions in the 1981–82 fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and the amount received pursuant to subdivision (c) of Section 26483 had those provisions been in effect for 1981–82.

(7) The amount of reduction pursuant to subdivision (a) shall be the lesser of the amounts determined in paragraphs (2), (4), and (6).

(c) The amount of reduction pursuant to subdivision (a) shall be deposited in the General Fund.

SEC. 159. Section 11005.86 is added to the Revenue and Taxation Code, to read:

11005.86. (a) For the purposes of Section 11005.75, "1982–83 assessed value" shall be determined as follows:

(1) The Department of Finance shall determine for each city the percentage that the amount of change in assessed value between 1978–79 and 1981–82 bears to the total of such assessed value changes for all cities.

(2) The percentage computed in paragraph (1) shall be applied to the amount of assesssed value change between 1981–82 and 1982–83 for all cities, as estimated by the Department of Finance.

(3) The amount computed in paragraph (2) shall be added to the 1981–82 assessed value.

(b) For the purposes of Section 11005.85, "1982–83 assessed value" shall be determined as follows:

(1) The Department of Finance shall determine for each county and city and county the percentage that the amount of change in assessed value between 1978–79 and 1981–82 bears to the total of such assessed value changes for all counties and cities and counties.

(2) The percentage computed in paragraph (1) shall be applied to the amount of assessed value change between 1981–82 and 1982–83 for all counties and cities and counties, as estimated by the Department of Finance.

(3) The amount computed in paragraph (2) shall be added to the 1981–82 assessed value.

(c) For purposes of this section and Secs. 11005.75 and 11005.85, "1978–79 assessed value" shall not include the taxable portion of business inventory assessed value.

SEC. 160. Section 12202 of the Revenue and Taxation Code is amended to read:

12202. The rate of tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent except the rate to be applied to the basis in respect to the years 1982, 1983, 1984, and 1985 is 2.33 percent and except that as to gross premiums received upon policies or contracts issued in connection with a pension plan or profit-sharing plan exempt or qualified under Section 401(a), 403(b), 404, 408(b), or 501(a) of the United States Internal Revenue Code as they may be amended or renumbered from time to time, the rate of tax shall be the percentage set forth below opposite each year:

Year	Percentage
1960	2.15
1961	1.95
1962	1.75
1963	1.55
1964	1.35
1965 through 1968	1.00
1969 and each year thereafter	0.50

SEC. 161. Section 12252 of the Revenue and Taxation Code is repealed.

SEC. 162. Section 12253 of the Revenue and Taxation Code is amended to read:

12253. Each insurer required to make prepayments shall remit them on or before each of the dates of April 1st, June 15th, September 15th and December 15th of the current calendar year. Remittances for prepayments shall be made payable to the Controller and shall be delivered to the office of the commissioner, accompanied by a prepayment form prescribed by the commissioner.

SEC. 163. Section 12253.5 is added to the Revenue and Taxation Code, to read:

12253.5. For prepayments in the 1983 calendar year only, each insurer required to make prepayments shall remit them on or before January 1, 1983, in addition to the dates specified in Section 12253.

The amount of that prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the 1981 calendar year.

SEC. 164. Section 12254 of the Revenue and Taxation Code is amended to read:

12254. (a) The amount of each prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.

(b) In establishing the prepayment amount of an insurer who has acquired the business of another insurer, the amount of tax liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.

SEC. 165. Section 12255 of the Revenue and Taxation Code is amended to read:

12255. The commissioner, for good cause shown, may extend for not to exceed 10 days the time for making a prepayment. The extension may be granted at any time, provided that a request therefor is filed with the commissioner within or prior to the period for which the extension may be granted. Interest at the rate prescribed by Section 12631 shall be paid for the period of time for which the extension is granted.

SEC. 166. Section 12977 of the Revenue and Taxation Code is amended to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board and shall certify to the State Board of Control the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid. If approved by the State Board of Control, the excess shall be certified to the Controller for credit or refund. In the case, however, of a determination by the board that an amount not exceeding ten thousand dollars ($10,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may certify the amount to the Controller for credit or refund.

(b) Notwithstanding the provisions of subdivision (a), approval of the State Board of Control shall not be required with regard to a refund resulting from prepayment of taxes during and for the calendar year.

(c) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer under this part and refund the balance.

SEC. 167. Section 12983.5 is added to the Revenue and Taxation Code, to read:

12983.5. If any overpayment of taxes imposed by this part is refunded or credited within 90 days after the due date of the tax for the year for which the overpayment was made, no interest shall be

allowed on that overpayment.

SEC. 168. A heading is added immediately preceding Section 13301 of the Revenue and Taxation Code, to read:

CHAPTER 1. IMPOSITION OF TAX

SEC. 169. Section 13304 is added to the Revenue and Taxation Code, to read:

13304. In a case where a decedent leaves property having a situs in this state, and leaves other property having a situs in another state, or other states, the portion of the maximum state death tax credit allowable against the federal estate tax on the total estate by the federal estate tax law which is attributable to the property having a situs in California shall be determined in the following manner:

(a) For the purpose of apportioning the maximum state death tax credit, the gross value of the property shall be that value finally determined for federal estate tax purposes.

(b) The maximum state death tax credit allowable shall be multiplied by the percentage which the gross value of property having a situs in California bears to the gross value of the entire estate subject to federal estate tax.

(c) The product determined pursuant to subdivision (b) shall be the portion of the maximum state death tax credit allowable which is attributable to property having a situs in California.

SEC. 170. Chapter 2 (commencing with Section 13401) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2. DEFINITIONS

13401. Except where the context otherwise requires, the definitions given in this chapter govern construction of this part.

13402. "Estate" or "property" means the real or personal property or interest therein of a decedent or transferor, and includes all of the following:

(a) All intangible personal property of a resident decedent within or without the state or subject to the jurisdiction thereof.

(b) All intangible personal property in California belonging to a deceased nonresident of the United States, including all stock of a corporation organized under the laws of California or which has its principal place of business or does the major part of its business in California or of a federal corporation or national bank which has its principal place of business or does the major part of its business in California, excluding, however, savings accounts in savings and loan associations operating under the authority of the Division of Savings and Loan or the Federal Home Loan Bank board and bank deposits, unless those deposits are held and used in connection with a business conducted or operated, in whole or in part, in California.

13403. "Personal representative" means the personal representative of the decedent or, if there is no personal

representative appointed, qualified and acting within this state, any person who is in actual or constructive possession of any property included in the gross estate of the decedent.

13404. "Transfer" includes the passage of any property, or any interest therein or income therefrom, in possession or enjoyment, present or future, in trust or otherwise.

13405. "Decedent" or "transferor" means any person by or from whom a transfer is made, and includes any testator, intestate, grantor, bargainor, vendor, assignor, donor, joint tenant, or insured.

13406. "Transferee" means any person to whom a transfer is made, and includes any legatee, devisee, heir, next of kin, grantee, donee, vendee, assignee, successor, survivor, or beneficiary.

13407. "Resident" or "resident decedent" means a decedent who was domiciled in California at his or her death.

13408. "Nonresident" or "nonresident decedent" means a decedent who was domiciled outside of California at his or her death.

13409. "Gross estate" means "gross estate" as defined in Section 2031 of the United States Internal Revenue Code of 1954, as amended or renumbered.

13410. "Taxable estate" means the "taxable estate" as defined in Section 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered.

13411. "Federal credit" means the maximum amount of the credit for state death taxes allowed by Section 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered in respect to a decedent's taxable estate.

SEC. 171. Chapter 3 (commencing with Section 13501) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 3. RETURNS

Article 1. Estate Tax Return

13501. The personal representative of every estate subject to the tax imposed by this part who is required to file a federal estate tax return shall file with the Controller on or before the federal estate tax return is required to be filed both of the following:

(a) A return for the tax due under this part.

(b) A true copy of the federal estate tax return.

13502. If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by Section 13501 shall be similarly extended until the end of the time period granted in the extension of time for the federal estate tax return. A true copy of the federal extension shall be filed with the Controller.

13503. If the personal representative files an amended federal estate tax return, he or she shall immediately file with the Controller an amended return with a true copy of the amended federal estate tax return. If the personal representative is required to pay an

additional tax under this part pursuant to the amended return, he or she shall pay that additional tax, together with any interest as provided in Section 13550 at the same time the amended return is filed.

13504. Upon final determination of the federal estate tax due, the personal representative shall, within 60 days after that determination, give written notice of it to the Controller. If any additional tax is due under this part by reason of this determination, the personal representative shall pay the same, together with interest as provided in Section 13550, at the same time he or she files the notice.

Article 2. Penalties

13510. If the return provided for in Section 13501 is not filed within the time period specified therein or the extension specified in Section 13502, then the personal representative shall pay, in addition to the interest provided in Section 13550, a penalty equal to 5 percent of the tax due pursuant to this part, as finally determined, for each month, or portion thereof, during which that failure to file continues, not exceeding 25 percent in the aggregate, unless it is shown that such failure is due to reasonable cause. If a similar penalty for failure to timely file the federal estate tax return is waived, that waiver shall be deemed to constitute reasonable cause for purposes of this section.

SEC. 172. Chapter 4 (commencing with Section 13516) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 4. DEFICIENCY DETERMINATION

13516. In a case not involving a false or fraudulent return or failure to file a return, if the Controller determines at any time after the tax is due, but not later than four years after the return is filed, that the tax disclosed in any return required to be filed by this part is less than the tax disclosed by his or her examination, a deficiency shall be determined. That determination may also be made within such time after the expiration of that four-year period as may be agreed upon in writing between the Controller and the personal representative.

For purposes of this section, a return filed before the last day prescribed by law for filing that return shall be considered as filed on that last day.

13517. In the case of a false or fraudulent return or failure to file a return, the Controller may determine the tax at any time.

13518. In any case in which a deficiency has been determined in an erroneous amount, the Controller may, within three years after the erroneous determination was made, set aside the determination or issue an amended determination in the correct amount.

13519. The Controller shall give notice of the deficiency

determined, together with any penalty for failure to file a return, by personal service or by mail to the person filing the return at the address stated in the return, or, if no return is filed, to the person liable for the tax. Copies of the notice of deficiency may in like manner be given to such other persons as the Controller deems advisable.

13520. In any case in which it is claimed that a deficiency has been determined in an erroneous amount, any person who is liable for the tax may, within three years after the determination was made, bring an action against the state in the superior court having jurisdiction to have the tax modified in whole or in part.

SEC. 173. Chapter 5 (commencing with Section 13530) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 5. PAYMENT OF TAX

Article 1. Generally

13530. The tax imposed by this part shall be paid by the personal representative to the extent of assets subject to his or her control. Liability for payment of the tax continues until the tax is paid.

13531. The tax imposed by this part is due and payable at the date of the decedent's death.

13532. The tax imposed by this part is delinquent at the expiration of nine months from the date on which it becomes due and payable, if not paid within that time.

13533. The tax imposed by this part shall be paid to the Controller by remittance to the State Treasurer.

Article 2. Interest

13550. The tax imposed by this part does not bear interest if it is paid prior to the date on which it otherwise becomes delinquent. However, if that tax is paid after that date, that tax bears interest at the rate of 12 percent per annum from the date it became delinquent and until it is paid.

13551. Every payment on the tax imposed by this part is applied, first, to any interest due on the tax, secondly, to any penalty imposed by this part, and then, if there is any balance, to the tax itself.

Article 3. Delinquent Tax Bond

13555. If any personal representative fails to pay any tax imposed by this part for which he or she is liable prior to the delinquent date of the tax, he or she shall, on motion of the Controller, in his or her discretion, be required by the superior court having jurisdiction to execute a bond to the people of the State of California in a penalty of twice the amount of the tax with those sureties as the court may approve, conditioned for the payment of the tax, plus interest on the

tax at the rate of 12 percent per annum commencing on the date that tax became delinquent, within a certain time to be fixed by the court and specified in the bond.

13556. The bond shall be filed in the office of the clerk of the court, and a certified copy shall be immediately transmitted to the Controller.

13557. If the bond is not filed within 20 days after the date of the filing of the order requiring it, the letters of the personal representative affected shall be revoked upon motion of the Controller.

SEC. 174. Chapter 6 (commencing with Section 13560) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 6. REFUNDS

13560. Whenver the Controller determines that the tax due under this part has been over paid, the person making payment shall be entitled to a refund of the amount erroneously paid on presentation of proof satisfactory to the Controller that he or she is entitled to a refund.

13561. An application for the refund shall be made to the Controller within one year after the date the federal estate tax has been finally determined.

13562. On proof satisfactory that the applicant is entitled to a refund, the Controller shall draw his or her warrant upon the State Treasurer in favor of the person who paid the tax in the amount erroneously paid, and the State Treasurer shall refund that amount.

13563. Interest shall be allowed and paid upon any overpayment of the tax due under this part, at a rate each calendar year equal to the Federal Reserve rate on each January 1, not to exceed 7 percent per annum. That interest shall be allowed from the date on which payment of the tax would have become delinquent, if not paid, or the date of actual payment, whichever is later in time, to the date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

SEC. 175. Chapter 7 (commencing with Section 13601) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 7. COLLECTION OF TAX

Article 1. Suit for Tax

13601. The state may enforce its claim for any tax imposed by this part and enforce the lien of the tax by a civil action in any court of competent jurisdiction against any person liable for the tax or against any property subject to the lien.

Article 2. Lien of Tax

13610. (a) If any personal representative fails to pay any tax, interest, or penalty imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Except as otherwise provided in subdivision (b), the lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) Notwithstanding subdivision (a) of Section 7172 of the Government Code, all of the following apply to a state tax lien created pursuant to subdivision (a):

(1) Continues in effect for 10 years from the time a deficiency determination is issued pursuant to this part unless the state tax lien is sooner released or otherwise discharged.

(2) Is extinguished 10 years from the time a deficiency determination is issued, unless the state tax lien is recorded or filed as provided in Section 7171 of the Government Code.

Article 3. Warrant for Collection of Tax

13615. At any time within 10 years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the Controller or his or her authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and sale pursuant to a writ of execution.

13616. The Controller may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution. The Controller, and not the court, shall approve the fees for publication in a newspaper.

13617. The fees, commissions, and expenses are obligations of the person required to pay any amount under this part and may be collected from him or her by virtue of the warrant or in any manner provided in this part for the collection of the tax.

Article 4. Writ of Execution

13620. At any time after a tax imposed by this part is delinquent, the Controller may have a writ of execution issued for the enforcement of any judgment rendered pursuant to this part in respect to the tax.

13621. The writ shall be executed against any property of the person liable for payment of the tax, or against any property subject to the lien of the tax.

13622. No fee shall be exacted from the Controller for the issuance of execution of the writ.

Article 5. Miscellaneous

13680. Proceedings for the collection of any tax imposed by this part may be commenced at any time after the tax is due and within 10 years from and after the time a delinquency determination is issued pursuant to the provisions of this part.

13681. In any proceeding for the enforcement of the estate tax a certificate by the Controller showing the amount due is prima facie evidence of the imposition of the tax, of the fact that it is due, and of compliance by the Controller with all the provisions of this part in relation to the computation and determination of the tax.

13682. No injunction, writ of mandate, or other legal or equitable process shall ever issue in any suit, action, or proceeding in any court against this state or any officer of this state to prevent or enjoin the collection of any tax imposed by this part.

13683. The Controller may bring suits in the courts of other states to collect estate taxes payable under this part. An official of another state which extends a like comity to this state may sue for the collection of similar taxes in the courts of this state. A certificate by the secretary of state of another state, under the great seal of that state, that an official thereof has authority to collect its estate or other transfer taxes is conclusive evidence of the authority of that official in any suit for the collection of those taxes in any court of this state.

13684. The remedies of the state for the enforcement of the tax imposed by this part are cumulative, and no action taken by the Controller or any other state official constitutes an election by the state or any of its officers to pursue any remedy to the exclusion of any other remedy for which provision is made by this part.

Article 6. Tax Compromise

13801. The Controller may compromise with the personal representative the tax, including interest and penalty thereon, payable on the estate of any decedent who it is claimed was not a resident of this state at the time of his or her death.

13810. When the Controller claims that a decedent was domiciled in this state at the time of his or her death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the Controller may make a written agreement of compromise with the other taxing authorities and the executor or administrator that a certain sum shall be accepted in full satisfaction of any and all death taxes imposed by this state, including any interest to the date of filing the agreement. The agreement shall also fix the

amount to be accepted by the other states in full satisfaction of death taxes. The executor or administrator is hereby authorized to make that agreement. Either the Controller or the executor or administrator shall file the agreement, or a duplicate, with the authority that would be empowered to determine death taxes for this state if there had been no agreement; and thereupon the tax shall be deemed conclusively fixed as therein provided. Unless the tax is paid within 90 days after filing the agreement, interest shall thereafter accrue upon the amount fixed in the agreement but the time between the decedent's death and the filing shall not be included in computing the interest.

13810.1. As used in this article, "state" means any state, territory, or possession of the United States, and the District of Columbia.

13810.2. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

13810.3. This article may be cited as the "Uniform Act on Interstate Compromise of Death Taxes."

13810.4. This article shall apply to estates of decedents dying before or after its enactment.

Article 7. Uniform Act on Interstate Arbitration of Death Taxes

13820. When the Controller claims that a decedent was domiciled in this state at the time of his or her death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the Controller may make a written agreement with the other taxing authorities and with the executor or administrator to submit the controversy to the decision of a board consisting of one or any uneven number of arbitrators (hereafter referred to in this article as "board"). The executor or administrator is hereby authorized to make the agreement. The parties to the agreement shall select the arbitrator or arbitrators.

13820.1. The board shall hold hearings at such times and places as it may determine, upon reasonable notice to the parties to the agreement, all of whom shall be entitled to be heard, to present evidence and to examine and cross-examine witnesses.

13820.2. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of books, papers and documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, any judge of a court of record of this state, upon application by the board, may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt.

13820.3. The board shall, by majority vote, determine the domicile of the decedent at the time of his or her death. This determination shall be final for purposes of imposing and collecting

death taxes but for no other purpose.

13820.4. Except as provided in Section 13820.2 in respect of the issuance of subpoenas, all questions arising in the course of the proceeding shall be determined by majority vote of the board.

13820.5. The Controller, the board, or the executor or administrator shall file the determination of the board as to domicile, the record of the board's proceedings, and the agreement, or a duplicate, made pursuant to Section 13820, with the authority having jurisdiction to determine the death taxes in the state determined to be the domicile and shall file copies of all such documents with the authorities that would have been empowered to determine the death taxes in each of the other states involved.

13820.6. In any case where it is determined by the board that the decedent died domiciled in this state, interest, if otherwise imposed by law, for nonpayment of death taxes between the date of the agreement and of filing of the determination of the board as to domicile, shall not exceed 10 percent per annum.

13820.7. Nothing contained herein shall prevent at any time a written compromise, if otherwise lawful, by all parties to the agreement made pursuant to Section 13820, fixing the amounts to be accepted by this and any other state involved in full satisfaction of death taxes.

13820.8. The compensation and expenses of the members of the board and its employees may be agreed upon among those members and the executor or administrator and if they cannot agree shall be fixed by the superior court of the state determined by the board to be the domicile of the decedent. The amounts so agreed upon or fixed shall be deemed an administration expense and shall be payable by the executor or administrator.

13820.9. This article shall apply only to cases in which each of the states involved has a law identical with or substantially similar to this act.

13820.10. As used in this article, the word "state" means any state, territory, or possession of the United States, and the District of Columbia.

13820.11. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

13820.12. This article may be cited as the "Uniform Act on Interstate Arbitration of Death Taxes."

13820.13. This article shall apply to estates of decedents dying before or after its enactment.

Article 8. Determination of Domicile by Arbitration: Alternative Method

13830. For the purposes of this article:

(a) "Executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary

administrator nor an administrator with the will annexed if an executor named in the will has been appointed and has qualified in another state.

(b) "Taxing official" means the Controller of the State of California and the designated authority of a reciprocal state.

(c) "Death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise.

(d) "Interested person" means any person who may be entitled to receive, or who has received, any property or interest which may be required to be considered in computing the death tax of any state involved.

(e) "State" means any state, territory, or possession of the United States, or the District of Columbia. "This state" means the State of California.

(f) "Board" means board of arbitration.

13830.1. In any case in which this state and one or more other states each claims that it was the domicile of a decedent at his or her death, at any time prior to the commencement of legal action for determination of domicile within this state or within 60 days thereafter, any executor, or the taxing official of any such state, may elect to invoke the provisions of this article. That executor or taxing official shall send a notice of that election by registered mail, receipt requested, to the taxing official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of that notice of election, any executor may reject that election by sending a notice, by registered mail, receipt requested, to all persons originally required to be sent a notice of election. When an election has been rejected by an executor, no further proceedings shall be had under this article. If that election is not rejected within the 40-day period, the dispute as to death taxes shall be determined solely as provided in this article. No other proceedings to determine or assess those death taxes shall thereafter be prosecuted in any court of this state or otherwise.

13830.2. In any case in which an election is made and not rejected the Controller may enter into a written agreement with the other taxing officials involved and with the executors to acept a certain sum in full payment of any death taxes, together with interest and penalties, that may be due this state; provided, this agreement fixes the amount to be paid the other states involved in the dispute.

13830.3. If in any case it appears that an agreement cannot be reached, as provided in Section 13830.2, or if one year shall have elapsed from the date of the election without an agreement having been reached, the domicile of the decedent at the time of his or her death shall be determined solely for death tax purposes as provided for in this article.

13830.4. Where only this state and one other state are involved, the Controller and the taxing official of the other state shall each appoint a member of a board of arbitration, and these members shall appoint the third member of the board. If this state and more than one other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in three states not involved in the dispute and each of these authorities shall appoint a member of the board of arbitration. The board shall select one of its members as chairman.

13830.5. The board shall hold hearings at such places as are deemed necessary, upon reasonable notice to the executors, ancillary administrators, all other interested persons, and to the taxing officials of the states involved, all of whom are entitled to be heard.

13830.6. The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents, and issue commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena may be punished by any court of record in the same manner as if the subpoena had been issued by that court.

13830.7. Whenever practicable the board shall apply the rules of evidence then prevailing in the federal courts under the federal rules of civil procedure.

13830.8. The board shall determine the domicile of the decedent at the time of his or her death. This determination is final and conclusive and binds this state, and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purposes. If the board does not render a determination within one year from the time that it is fully constituted, all authority of the board shall cease and the bar to court proceedings set forth in Section 13830.1 shall no longer exist.

13830.9. The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among those members, the taxing officials involved, and the executors. If an agreement cannot be reached, compensation and expenses shall be determined by those taxing officials; and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile. That amount shall be borne by the estate and shall be deemed an administration expense.

13830.10. The determination of the board and the record of its proceedings shall be filed with the authority having jurisdiction to assess the death tax in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

13830.11. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding, as provided in Section 13830.3, the Controller may in any case enter into a written

agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state; provided, this agreement fixes the amount to be paid the other states involved in the dispute, at any time before that proceeding is concluded. Upon the filing of this agreement with the authority which would have jurisdiction to assess the death tax of this state, if the decedent died domiciled in this state, an assessment shall be made as provided in that agreement, and this assessment finally and conclusively fixes the amount of death tax due this state. If the aggregate amount payable under that agreement or under an agreement made in accordance with the provisions of Section 13830.2 to the states involved is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to this state the same percentage of the difference between that aggregate amount and the amount of that credit as the amount payable to this state under that agreement bears to that aggregate amount.

13830.12. When in any case the board of arbitration determines that a decedent dies domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed 12 percent of the amount of the taxes per annum.

13830.13. This article shall be applicable only to cases in which each of the states involved in the dispute has in effect therein a law substantially similar hereto. However, nothing contained in this section shall prohibit the application of this article or any part hereof where any of the other states involved in the dispute have in effect therein a law empowering the tax authority to voluntarily enter into a binding arbitration or compromise agreement and such an agreement is so entered into.

SEC. 176. Chapter 8 (commencing with Section 14000) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 8. COURT JURISDICTION AND PROCEDURE GENERALLY

Article 1. Court Jurisdiction

14000. The superior court which has jurisdiction in probate of the estate of any decedent shall hear and determine all questions relative to any tax imposed by this part, whether the property listed in the estate tax return, or any portion thereof, is in the estate or not.

14001. In a case where a deceased resident of this state leaves no estate subject to probate administration, the superior court in which the decedent resided at the date of death shall hear and determine all questions relative to any tax imposed by this part.

14002. In the case of a decedent who was not a resident of this state at the time of his or her death, the superior court of the county in which the decedent's real property is situated, or, if he or she had

no real property in this state, the superior court of the county in which any of his or her personal property is situated, has jurisdiction to hear and determine all questions relative to any tax imposed by this part. If the decedent leaves property in more than one county, the superior court of any such county whose jurisdiction is first invoked has exclusive jurisdiction.

Article 2. Court Procedure Generally

14010. Except as otherwise provided in this part, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments, and execution of judgments, so far as applicable, govern all proceedings under this part.

14011. Nothing in this article precludes the state from any relief provided for in this part which may be inconsistent with the provisions of the Code of Civil Procedure.

14012. The provisions of the Code of Civil Procedure relative to the time of commencing civil actions do not apply to any action or proceeding under this part to levy, appraise, assess, determine, or enforce the collection of any tax, interest, or penalty imposed by this part.

14013. No fee shall be charged the Controller for filing, recording, or certifying any petition, lis pendens, decree, or order for taking any oath or acknowledgement, in any proceedings under this part; nor shall any undertaking be required from the Controller or the state in any such proceeding.

SEC. 177. Chapter 9 (commencing with Section 14101) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 9. ADMINISTRATION

Article 1. Generally

14101. This part shall be administered by the Controller.

14102. The Controller may employ those assistants, including attorneys, as may from time to time be necessary for the proper administration of this part.

14103. The Controller may make and enforce rules and regulations relating to the administration and enforcement of this part, and may prescribe the extent, if any, to which any ruling or regulation shall be applied without retroactive effect.

14104. The Controller shall, without charge, distribute a copy of this part to any person who requests it.

Article 2. Special Employment

14151. Whenver he or she is cited as a party to any proceeding or action to determine any tax imposed by this part, or whenever he or she deems it necessary for the better enforcement of this part to

secure evidence of the evasion of, or to commence or appear in any proceeding or action to determine, any such tax, the Controller may, with the consent and approval of the Attorney General:

(a) Specially employ any attorney or other person in or out of the state to act for or represent him or her on the state's behalf.

(b) Incur any reasonable and necessary expense for and incident to the employment.

Article 3. Hearings

14201. The Controller may conduct a hearing at any time or place for the purpose of determining whether a tax is due under this part.

14202. For purposes of the hearing referred to in Section 14201, the Controller has all of the following:

(a) Jurisdiction to require the attendance before him or her of any person who he or she may have reason to believe possesses knowledge of any facts that will aid the Controller in the determination of the tax.

(b) All the powers of a referee of the superior court.

14203. The Controller may issue subpoenas for any of the following purposes:

(a) Compelling the attendance of any person before him or her or the production of books and papers.

(b) Determining the amount of any tax due.

14204. On the filing by the Controller of a petition asking the court to do so, the superior court of the county in which a hearing is held may compel compliance with any subpoena issued by the Controller.

14205. The Controller may examine and take the testimony under oath of any person appearing before him or her concerning the determination of any tax due under this part.

14206. Any person compelled to attend a hearing before the Controller is entitled to fees for attendance in an amount to be determined by the Controller, and to his or her expenses of attendance. The fees and expenses are a part of the cost of administering this part.

Article 4. Information Confidential

14251. All information and records acquired by the Controller or any of his or her employees are confidential in nature, and except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them.

Except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller or employee of the Controller who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony, and upon conviction shall be imprisoned in the state prison.

14252. The Controller may allow any local, state, or federal official charged with the administration of any tax law to examine his or her estate tax records under those rules and regulations as he or she may prescribe.

SEC. 178. Chapter 10 (commencing with Section 14301) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 10. DISPOSITION OF PROCEEDS

14301. All taxes and other money collected under this part and received by the State Treasurer shall be deposited in the State Treasury to the credit of the Estate Tax Fund, which fund is hereby created.

14302. The money in the Estate Tax Fund is hereby appropriated as follows:

(a) To pay the refunds authorized by this part and by Part 9.5 (commencing with Section 16700).

(b) The balance of the money in the fund shall, on order of the Controller, be transferred to the unappropriated surplus in the State General Fund.

SEC. 179. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2000	1% of the taxable income
Over $2000 but not over $3500	$20 plus 2% of excess over $2000
Over $3500 but not over $5000	$50 plus 3% of excess over $3500
Over $5000 but not over $6500	$95 plus 4% of excess over $5000
Over $6500 but not over $8000	$155 plus 5% of excess over $6500
Over $8000 but not over $9500	$230 plus 6% of excess over $8000
Over $9500 but not over $11,000	$320 plus 7% of excess over $9500

Over $11,000 but not over $12,500	$425 plus 8% of excess over $11,000
Over $12,500 but not over $14,000	$545 plus 9% of excess over $12,500
Over $14,000 but not over $15,500	$680 plus 10% of excess over $14,000
Over $15,500	$830 plus 11% of excess over $15,500

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources.

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

If the taxable income is:	The tax is:
Not over $4000	1% of the taxable income
Over $4000 but not over $6000	$40 plus 2% of excess over $4000
Over $6000 but not over $7500	$80 plus 3% of excess over $6000
Over $7500 but not over $9000	$125 plus 4% of excess over $7500
Over $9000 but not over $10,500	$185 plus 5% of excess over $9000
Over $10,500 but not over $12,000	$260 plus 6% of excess over $10,500
Over $12,000 but not over $13,500	$350 plus 7% of excess over $12,000
Over $13,500 but not over $15,000	$455 plus 8% of excess over $13,500

Over $15,000 but not over $16,500	$575 plus 9% of excess over $15,000
Over $16,500 but not over $18,000	$710 plus 10% of excess over $16,500
Over $18,000	$860 plus 11% of excess over $18,000

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources.

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

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

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

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

(3) For taxable years beginning on or after January 1, 1979, and ending on or before November 30, 1980, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure furnished pursuant to paragraph (1) which exceeds three percent (3%), and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(4) For taxable years beginning on or after January 1, 1980 and ending on or before November 30, 1982, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(5) For taxable years beginning on and after January 1, 1982, and thereafter, the Franchise Tax Board shall compute an inflation

adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to rounded off to the nearest ten dollars ($10).

SEC. 180. Section 17052.4 of the Revenue and Taxation Code is amended to read:

17052.4. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h)), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the energy conservation measures are installed may claim the credit in the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures.

(4) (A) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units

served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(B) In the case of a taxpayer who qualifies for a refund provided for under this subdivision, whose credits exceed tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17053.5, 17061, and 18551.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed. This subparagraph shall not apply to taxable years beginning on or after January 1, 1982.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost"

shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by

a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18555.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J) shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1983.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(8) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (6) of subdivision (h).

SEC. 181. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (i)), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges, monthly lease payments, and costs associated with the acquisition of a solar easement as specified in paragraph (7), but excluding interest charges) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. The credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in paragraph (6) of subdivision (i).

(A) The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

(B) The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the

formulas in this paragraph, so long as the total amount of the credit claimed under the 55 percent formula does not exceed three thousand dollars ($3,000).

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost (including installation charges but excluding interest charges and costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formulas in paragraph (2) or (3).

(4) If a solar energy system serves two or more dwellings, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar

energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease a solar energy system from a municipal utility shall receive a tax credit equal to 55 percent of the purchased portion of the solar energy system (including installation charges, but excluding interest charges) and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the solar tax credit allowance terminates, whichever occurs first. Such credit shall not exceed three thousand dollars ($3,000). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the solar energy system. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(7) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of the cost of the solar energy systems, and shall be eligible for the tax credit.

(8) The cost of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and any grant provided by a public utility. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, until such credit is used. The credit shall be applied first to the earliest years possible.

(f) In the case of taxpayers who qualify for a refund provided for under this subdivision, whose credits exceed their tax liability computed under this part, minus all other credits provided for in this

part, except the credits provided in Sections 17061, 18551.1 and 17053.5, the taxpayers shall be allowed a credit to the extent of the taxpayers' tax liability plus a refund in excess of that amount up to, or a combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed. This subdivision shall not apply to taxable years beginning on or after January 1, 1982.

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (e).

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061, (relating to excess state disability insurance withheld), Section 18551.1, (relating to income tax withheld), and Section 17053.5, (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(4) "Premises" means the principal stationary location in California where the installed system is to be used and includes land, buildings or portions thereof, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, apartments, individual units of a condominium, cooperatives, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structure of a building or is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(j) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208. Also, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(k) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(*l*) No credit shall be allowed under this section if the credit amount would be less than ten dollars ($10).

SEC. 182. Section 17055 of the Revenue and Taxation Code is repealed.

SEC. 183. Section 17064.5 of the Revenue and Taxation Code is amended to read:

17064.5. (a) In the case of an estate or trust—

(1) The sum of the items of tax preference for any taxable year of the estate or trust shall be apportioned between the estate or trust

and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) The four thousand dollars ($4,000) amount specified in Section 17062 applicable to such estate or trust shall be reduced to an amount which bears the same ratio to four thousand dollars ($4,000) as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.

(b) In the case of a nonresident or a part-year resident, the minimum tax imposed by this chapter shall be a tax computed as if the nonresident or part-year resident were a resident multiplied by the ratio of California source items of tax preference to total items of tax preference from all sources.

(c) The items of tax preference of a common trust fund (as defined in Section 17671) for each taxable year of the fund shall be treated as items of tax preference of the participants of such fund and shall be apportioned pro rata among such participants.

(d) If a return is made for a short period, then the four thousand dollars ($4,000) amount specified in Section 17062 or the eight thousand dollars ($8,000) specified in Section 17062.1, modified as provided by this section, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.

(e) (1) For purposes of this part, the term estimated tax shall not include the minimum tax imposed by this chapter.

(2) For purposes of Chapter 12 (relating to credit for taxes paid), the taxes imposed by this part do not include taxes imposed by this chapter.

(3) Except as otherwise expressly provided in this chapter, the term "taxes" includes the minimum tax imposed by this chapter.

(f) The Franchise Tax Board shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax under this chapter for any taxable years.

SEC. 184. Section 17241 of the Revenue and Taxation Code is amended to read:

17241. (a) In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

(1) To an individual retirement account described in Section 17530(a),

(2) For an individual retirement annuity described in Section 17530(b),

(3) For a retirement bond described in Section 17530.1 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this part, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the

meaning of Section 17502.2(a)) includable in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subdivision (b).

(b) (1) The amount allowable as a deduction under subdivision (a) to an individual for any taxable year may not exceed—

(A) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, or

(B) One thousand seven hundred fifty dollars ($1,750), whichever is the smallest amount.

(2) No deduction is allowed under subdivision (a) for the taxable year if the individual claims the deduction allowed by Section 17240 for the taxable year.

(3) No deduction is allowed under subdivision (a) for an individual for the taxable year if for any part of such year—

(A) He or his spouse was an active participant in—

(i) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(ii) An annuity plan described in Section 17511,

(iii) A qualified bond purchase plan described in Section 17526(a), or

(iv) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer, or his spouse's employer, for an annuity contract described in Section 17512 (whether or not his, or his spouse's rights in such contract are nonforfeitable).

(4) No deduction is allowed under subdivision (a) with respect to any payment described in subdivision (a) which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

(5) No deduction is allowed under this section with respect to a rollover contribution described in Section 17503(e), 17511(c), 17512(a), 17530(d)(3), or 17530.1(b)(3)(C).

(6) In the case of an endowment contract described in Section 17530(b), no deduction is allowed under subdivision (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Franchise Tax Board, to the cost of life insurance.

(7) No deduction is allowed under subdivision (a) with respect to a payment described in subdivision (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to Section 911 of the Internal Revenue Code of 1954 as amended by P.L. 97-34) for the taxable year of such spouse ending with or within such taxable year.

(c) (1) For purposes of this section, the term "compensation" includes earned income as defined in Section 17502.2(b).

(2) This section shall be applied without regard to any community property laws.

(3) The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of Section 17173.

(4) For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

(5) A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subdivision (b) (3) (A) (iv) if, under Section 17240(c) (4), he is not considered to be an active participant in such a plan.

(6) (A) If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

(i) The amount of such excess, or

(ii) The amount of the excess contributions for such taxable year (determined under paragraph (2) of subsection (b) of Section 4973 of the Internal Revenue Code of 1954 as amended by Public Law 97-34 without regard to subparagraph (C) thereof).

(B) For purposes of this paragraph, the amount contributed—

(i) Shall be determined without regard to this paragraph, and

(ii) Shall not include any rollover contribution.

(C) Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or Section 17240 for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

(d) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 185. Section 17301 of the Revenue and Taxation Code is amended to read:

17301. The proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules and regulations prescribed by the Franchise Tax Board.

SEC. 186. Section 17302 of the Revenue and Taxation Code is repealed.

SEC. 187. Section 17303 of the Revenue and Taxation Code is repealed.

SEC. 188. Section 17304 of the Revenue and Taxation Code is repealed.

SEC. 189. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. A trust created or organized in the United States and

forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this article—

(a) If contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under Section 17516(b) (relating to deduction for contributions to profit-sharing and stock bonus plans), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(b) If under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries;

(c) If the plan of which such trust is a part satisfies the requirements of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 97-34 (relating to minimum participation standards); and

(d) If the contributions or the benefits provided under the plan do not discriminate in favor of employees who are (1) officers, (2) shareholders, or (3) highly compensated. For purposes of this subdivision, there shall be excluded from consideration employees described in Section 410(b) (2) (A) and (C) of the Internal Revenue Code of 1954 as amended by Public Law 96-605.

(e) A classification shall not be considered discriminatory within the meaning of subdivision (d) or Section 410(b) of the Internal Revenue Code of 1954 as amended by Public Law 97-34 (without regard to paragraph (1) (A) thereof) merely because it excludes employees the whole of whose remuneration constitutes "wages" under Section 3121(a) (1) of the Internal Revenue Code of 1954 as amended by Public Law 96-613 (relating to the Federal Insurance Contribution Act) or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of such provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, or merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by Section 3121(a) (1) of the Internal Revenue Code of 1954, as amended by Public Law 96-613, or of the California Unemployment Insurance Act differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under state or federal law.

For purposes of this subdivision and subdivision (j), the total compensation of an individual who is an employee within the meaning of Section 17502.2(a) means such individual's earned

income (as defined in Section 17502.2(b)), and the basic or regular rate of compensation of such an individual shall be determined, under regulations prescribed by the Franchise Tax Board, with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan bears to the total compensation of such employees. For purposes of determining whether two or more plans of an employer satisfy the requirements of subdivision (d) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under Sections 17513 to 17525.1, inclusive, for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For the purposes of determining whether two or more plans of an employer satisfy the requirements of subdivision (d) when considered as a single plan, if the employees' right to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Franchise Tax Board to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the difference in such rates. For purposes of determining whether one or more plans of an employer satisfy the requirements of paragraph (4) and of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 97-34, an employer may take into account all simplified employee pensions to which only the employer contributes.

(f) A plan shall be considered as meeting the requirements of subdivision (c) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(g) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of Section 411 of the Internal Revenue Code of 1954 as amended by Public Law 96-364 (relating to minimum vesting standards).

(h) A trust forming part of a pension plan shall not constitute a qualified trust under this article unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive under the plan.

(i) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2(a), a trust forming part of such plan shall not constitute a qualified trust under this article unless, under the plan, the entire interest of each employee—

(1) Either will be distributed to him not later than his taxable year in which he attains the age of 70½ years, or, in the case of an employee other than an owner-employee (as defined in Section

17502.2(c)), in which he retires, whichever is the later, or

(2) Will be distributed, commencing not later than such taxable year, (A) in accordance with regulations prescribed by the Franchise Tax Board, over the life of such employee or over the lives of such employee and his spouse, or (B) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse. A trust shall not be disqualified under this subdivision by reason of distributions under a designation, prior to the date of the enactment of this subdivision, by any employee under the plan of which such trust is a part, of a method of distribution which does not meet the terms of the preceding sentence.

(j) In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in Section 17502.2(c))—

(1) Subdivision (c), the first and second sentences of subdivision (e), and Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 97-34 shall not apply, but—

(A) Such plan shall not be considered discriminatory within the meaning of subdivision (d) merely because the contributions or benefits of or on behalf of employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, and

(B) Such plan shall not be considered discriminatory within the meaning of subdivision (d) solely because under the plan contributions described in Section 17502.4 which are in excess of the amounts which may be deducted under Sections 17513 to 17525.1, inclusive, for the taxable year may be made on behalf of any owner-employee; and

(2) A trust forming a part of such plan shall constitute a qualified trust under this section only if the requirements in Section 17502.3 are also met.

(k) (1) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity unless such plan provides for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity.

(2) Notwithstanding the provisions of paragraph (1), in the case of a plan which provides for the payment of benefits before the normal retirement age (as defined in Section 411(a)(8) of the Internal Revenue Code of 1954 as amended by Public Law 94-455), the plan is not required to provide for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity during the period beginning on the date on which the employee enters into the plan as a participant and ending on the later of—

(A) The date the employee reaches the earliest retirement age under the plan, or

(B) The first day of the 120th month beginning before the date on

which the employee reaches normal retirement age.

(3) A plan described in paragraph (2) does not meet the requirements of paragraph (1) unless, under the plan, a participant has a reasonable period during which he may elect the qualified joint and annuity form with respect to the period beginning on the date on which the period described in paragraph (2) ends and ending on the date on which he reaches normal retirement age (as defined in Section 411(a)(8) of the Internal Revenue Code of 1954 as amended by Public Law 94-455) if he continues his employment during that period. A plan does not meet the requirements of this paragraph unless, in the case of such an election, the payments under the survivor annuity are not less than the payments which would have been made under the joint annuity to which the participant would have been entitled if he made an election described in this paragraph immediately prior to his retirement and if his retirement had occurred on the day before his death and within the period within which an election can be made.

(4) A plan shall not be treated as not satisfying the requirements of this subdivision solely because the spouse of the participant is not entitled to receive a survivor annuity (whether or not an election described in paragraph (3) has been made under paragraph (3)) unless the participant and his spouse have been married throughout the one-year period ending on the date of such participant's death.

(5) A plan shall not be treated as satisfying the requirements of this subdivision unless, under the plan, each participant has a reasonable period (as prescribed by the regulations of the Franchise Tax Board) before the annuity starting date during which he may elect in writing (after having received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this paragraph) not to take such joint and survivor annuity.

(6) A plan shall not be treated as not satisfying the requirements of this subdivision solely because under the plan there is a provision that any election described in paragraph (3) or (5), and any revocation of any such election, does not become effective (or ceases to be effective) if the participant dies within a period (not in excess of two years) beginning on the date of such election or revocation, as the case may be. The preceding sentence does not apply unless the plan provision described in the preceding sentence also provides that such an election or revocation will be given effect in any case in which—

(A) The participant dies from accidental causes,

(B) A failure to give effect to the election or revocation would deprive the participant's survivor of a survivor annuity, and

(C) Such election or revocation is made before such accident occurred.

(7) For purposes of this subdivision—

(A) The term "annuity starting date" means the first day of the first period for which an amount is received as an annuity (whether

by reason of retirement or by reason of disability),

(B) The term "earliest retirement age" means the earliest date on which, under the plan, the participant could elect to receive retirement benefits, and

(C) The term "qualified joint and survivor annuity" means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is not less than one-half of, or greater than, the amount of the annuity payable during the joint lives of the participant and his spouse and which is the actuarial equivalent of a single life annuity for the life of the participant.

For purposes of this subdivision, a plan may take into account in any equitable manner (as determined by the Franchise Tax Board) any increased costs resulting from providing joint and survivor annuity benefits.

(8) This subdivision shall apply only if—

(A) The annuity starting date did not occur before the effective date of this subdivision, and

(B) The participant was an active participant in the plan on or after such effective date.

(*l*) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that in the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan after the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), each participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated). This subdivision shall apply in the case of a multiemployer plan only to the extent determined by the Pension Benefit Guaranty Corporation.

(m) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated. For purposes of the preceding sentence, there shall not be taken into account any voluntary and revocable assignment of not to exceed 10 percent of any benefit payment made by any participant who is receiving benefits under the plan unless the assignment or alienation is made for purposes of defraying plan administration costs. For purposes of this subdivision a loan made to a participant or beneficiary shall not be treated as an assignment or alienation if such loan is secured by the participant's accrued nonforfeitable benefit and is exempt from the tax imposed by Section 4975 of the Internal Revenue Code of 1954 as amended by Public Law 96-596 (relating to tax on prohibited transactions) by reason of Section 4975(d)(1) of the Internal Revenue Code of 1954 as amended by Public Law 96-364. This paragraph shall take effect on January 1, 1976, and shall not

apply to assignments which were irrevocable on the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(n) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that, unless the participant otherwise elects, the payment of benefits under the plan to the participant will begin not later than the 60th day after the latest of the close of the plan year in which—

(1) The date on which the participant attains the earlier of age 65 or the normal retirement age specified under the plan,

(2) Occurs the 10th anniversary of the year in which the participant commenced participation in the plan, or

(3) The participant terminates his service with the employer. In the case of a plan which provides for the payment of an early retirement benefit, a trust forming a part of such plan shall not constitute a qualified trust under this article unless a participant who satisfied the service requirements for such early retirement benefit, but separated from the service (with any nonforfeitable right to an accrued benefit) before satisfying the age requirement for such early retirement benefit, is entitled upon satisfaction of such age requirement to receive a benefit not less than the benefit to which he would be entitled at the normal retirement age, actuarially reduced under regulations prescribed by the Franchise Tax Board.

(o) A trust shall not constitute a qualified trust under this article unless under the plan of which such trust is a part—

(1) In the case of a participant or beneficiary who is receiving benefits under such plan, or

(2) In the case of a participant who is separated from the service and who has nonforfeitable rights to benefits, such benefits are not decreased by reason of any increase in the benefit levels payable under Title II of the Social Security Act or any increase in the wage base under such Title II, if such increase takes place after the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406) or (if later) the earlier of the date of first receipt of such benefits or the date of such separation, as the case may be.

(p) A trust shall not constitute a qualified trust under this article if the plan of which such trust is a part provides for benefits or contributions which exceed the limitations of Section 415 of the Internal Revenue Code of 1954 as amended by Public Law 97-34.

(q) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2, only if—

(1) The annual compensation of each employee taken into account under the plan does not exceed the first two hundred thousand dollars ($200,000) of compensation, and

(2) In the case of—

(A) A defined contribution plan with respect to which compensation in excess of one hundred thousand dollars ($100,000) is taken into account, contributions on behalf of each employee

(other than an employee within the meaning of subdivision (a) of Section 17502.2) to the plan or plans are at a rate (expressed as a percentage of compensation) not less than 7.5 percent, or

(B) A defined benefit plan with respect to which compensation in excess of one hundred thousand dollars ($100,000) is taken into account, the annual benefit accrual for each employee (other than an employee within the meaning of subdivision (a) of Section 17502.2) is a percentage of compensation which is not less than one-half of the applicable percentage provided by Section 17502.9.

(r) In the case of a trust which is part of a plan providing a defined benefit for employees some or all of whom are employees within the meaning of Section 17502.2, only if such plan satisfies the requirements of Section 17502.9.

(s) A trust shall not constitute a qualified trust under this article if under the plan of which such trust is a part any part of a participant's accrued benefit derived from employer contributions (whether or not otherwise nonforfeitable), is forfeitable solely because of withdrawal by such participant of any amount attributable to the benefit derived from contributions made by such participant. The preceding sentence shall not apply to the accrued benefit of any participant unless, at the time of such withdrawal, such participant has a nonforfeitable right to at least 50 percent of such accrued benefit (as determined under Section 411 of the Internal Revenue Code of 1954 as amended by Public Law 96-364). The first sentence of this paragraph shall not apply to the extent that an accrued benefit is permitted to be forfeited in accordance with Section 411(a)(3)(D)(iii) of the Internal Revenue Code of 1954 as amended by Public Law 96-364 (relating to proportional forfeitures of benefits accrued before enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), in the event of withdrawal of certain mandatory contributions).

(t) A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section merely because the pension plan of which such trust is a part makes a payment or distribution described in subparagraph (A) of paragraph (1) of subdivision (d) of Section 17503 or subparagraph (A) of paragraph (9) of subdivision (a) of Section 17512. This paragraph shall not apply to a defined benefit plan unless the employer maintaining such plan files a notice with the Pension Benefit Guaranty Corporation (at the time and in the manner prescribed by the Pension Benefit Guaranty Corporation) notifying the corporation of such payment or distribution and the corporation has approved such payment or distribution or, within 90 days after the date on which such notice was filed, has failed to disapprove such payment or distribution.

(u) A trust forming part of an employee stock ownership plan shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under

subsection (a) of Section 46 of the Internal Revenue Code of 1954, as amended by Public Law 97-34, if the employer made the transfer described in paragraph (1) of subsection (n) of Section 48 of the Internal Revenue Code of 1954 as amended by Public Law 97-34.

(v) A trust forming part of a defined contribution plan which meets the requirements of subsection (e) of Section 409A of the Internal Revenue Code of 1954, as amended by Public Law 97-34, shall not be disqualified if it—

(1) Is established by an employer whose stock is not publicly traded, and

(2) After acquiring securities of the employer, more than ten (10) percent of the total assets of the plan are securities of the employer. This subdivision is applicable to the acquisition of securities after December 31, 1979.

(w) A stock bonus plan which otherwise meets the requirements of this section shall not be considered to fail to meet the requirements of this section because it provides a cash distribution option to participants if that option meets the requirements of Section 409A(h)(2) of the Internal Revenue Code of 1954 as amended by Public Law 96-613.

(x) Subdivisions (k), (*l*), (m), (n), (o), and (s) shall apply only in the case of a plan to which Section 411 of the Internal Revenue Code of 1954 as amended by Public Law 96-364 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section.

(y) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 190. Section 17530 of the Revenue and Taxation Code is amended to read:

17530. (a) For purposes of this section, the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

(1) Except in the case of a rollover contribution described in subdivision (d)(3), in Section 17503(d), 17511(e), 17512(a)(9), or 17530.1(b)(3), no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of two thousand dollars ($2,000) on behalf of any individual.

(2) The trustee is a bank (as defined in Section 17502.3(a)) or such other person who demonstrates to the satisfaction of the Franchise Tax Board that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

(3) No part of the trust funds will be invested in life insurance contracts.

(4) The interest of an individual in the balance in his account is nonforfeitable.

(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(6) The entire interest of an individual for whose benefit the trust is maintained will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Franchise Tax Board, over—

(A) The life of such individual or the lives of such individual and his spouse, or

(B) A period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse.

(7) If an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence does not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6).

(b) For purposes of this section, the term "individual retirement annuity" means an annuity contract, or an endowment contract (as determined under regulations prescribed by the Franchise Tax Board), issued by an insurance company which meets the following requirements:

(1) The contract is not transferable by the owner.

(2) Under the contract—

(A) The premiums are not fixed,

(B) The annual premium on behalf of any individual will not exceed two thousand dollars ($2,000), and

(C) Any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

(3) The entire interest of the owner will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, in accordance with regulations prescribed by the Franchise Tax Board over—

(A) The life of such owner or the lives of such owner and his spouse, or

(B) A period not extending beyond the life expectancy of such

owner or the life expectancy of such owner and his spouse.

(4) If the owner dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3).

(5) The entire interest of the owner is nonforfeitable. Such term does not include such an annuity contract for any taxable year of the owner in which it is disqualified on the application of subdivision (e) or for any subsequent taxable year. For purposes of this subdivision, no contract shall be treated as an endowment contract if it matures later than the taxable year in which the individual in whose name such contract is purchased attains age 70½; if it is not for the exclusive benefit of the individual in whose name it is purchased or his beneficiaries; or if the aggregate annual premiums under all such contracts purchased in the name of such individual for any taxable year exceed two thousand dollars ($2,000).

(c) A trust created or organized in the United States by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees (which may include employees within the meaning of Section 17502.2(a)) for the exclusive benefit of its members or their beneficiaries, shall be created as an individual retirement account (described in subdivision (a)), but only if the written governing instrument creating the trust meets the following requirements:

(1) The trust satisfies the requirements of paragraphs (1) through (7) of subdivision (a).

(2) There is a separate accounting for the interest of each employee or member (or spouse of an employee or member).

The assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust.

(d) (1) Except as otherwise provided in this subdivision, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall be included in gross income by the payee or distributee, as the case may be, for the taxable year in which the payment or distribution is received. Notwithstanding any other provision of this code (including Parts 8 (commencing with Section 13301) and 9 (commencing with Section

15101) of this division), the basis of any person in such an account or annuity is zero.

(2) Paragraph (1) does not apply to any annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subdivision (b) and which is distributed from an individual retirement account. Sections 17101 to 17112.7, inclusive, apply to any such annuity contract, and for purposes of Sections 17101 to 17112.7, inclusive, the investment in such contract is zero.

(3) An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

(A) Paragraph (1) does not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to the individual for whose benefit the account or annuity is maintained if—

(i) The entire amount received (including money and any other property) is paid into an individual retirement account or individual retirement annuity (other than an endowment contract) or retirement bond for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution;

(ii) The entire amount received (including money and other property) represents the entire amount in the account or the entire value of the annuity and no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an employees' trust described in Section 17501 which is exempt from tax under Section 17631 (other than a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan), or an annuity plan described in Section 17511 (other than a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan) and any earnings on such sums and the entire amount thereof is paid into another such trust (for the benefit of such individual) or annuity plan not later than the 60th day on which he receives the payment or distribution; or

(iii) (I) The entire amount received (including money and other property) represents the entire interest in the account or the entire value of the annuity,

(II) No amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an annuity contract described in Section 17512 and any earnings on such rollover, and

(III) The entire amount thereof is paid into another annuity contract described in Section 17512 (for the benefit of such individual) not later than the 60th day after he receives the payment or distribution.

(B) This paragraph does not apply to any amount described in

subparagraph (A) (i) received by an individual from an individual retirement account or individual retirement annuity if at any time during the one-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from an individual retirement account, individual retirement annuity, or a retirement bond which was not includable in his gross income because of the application of this paragraph. Clause (ii) of subparagraph (A) shall not apply to any amount paid or distributed out of an individual retirement account or an individual retirement annuity to which an amount was contributed which was treated as a rollover contribution by Section 17503(f) (or in the case of an individual retirement annuity, such section as made applicable by Section 17511(e)(2)).

(4) Paragraph (1) does not apply to the distribution of any contribution paid for a taxable year to an individual retirement account or for an individual retirement annuity to the extent that such contribution exceeds the amount allowable as a deduction under Section 17240 or 17241 if—

(A) Such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year.

(B) No deduction is allowed under Section 17240 or 17241 with respect to such excess contribution, and

(C) Such distribution is accompanied by the amount of net income attributable to such excess contribution. In the case of such a distribution, for purposes of Section 17071, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made.

(5) (A) In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed two thousand two hundred fifty dollars ($2,250), paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount allowable as a deduction under Section 17240 or 17241 for the taxable year for which the contribution was paid—

(i) If such distribution is received after the date described in paragraph (4),

(ii) But only to the extent that no deduction has been allowed under Section 17240 or 17241 with respect to such excess contribution.

If employer contributions on behalf of the individual are paid for the taxable year to a simplified employee pension, the dollar limitation of the preceding sentence shall be increased by the lesser of the amount of such contributions or fifteen thousand dollars ($15,000).

(B) (i) The taxpayer reasonably relies on information supplied pursuant to this part for determining the amount of a rollover

contribution, but

(ii) The information was erroneous, subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information.

(6) The transfer of an individual's interest in an individual retirement account, individual retirement annuity, or retirement bond to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this part, and such interest at the time of the transfer is to be treated as an individual retirement account of such spouse, and not of such individual. Thereafter such account, annuity, or bond for purposes of this part is to be treated as maintained for the benefit of such spouse.

(e) (1) Any individual retirement account is exempt from taxation under this part unless such account has ceased to be an individual retirement account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by Section 17651 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

(2) (A) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to and in conformance with Section 408 or 409 of the Internal Revenue Code of 1954 as amended by the Employee's Income Security Act of 1974 (P.L. 93-406), any net income attributable to the 1975 contribution shall not be includable in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(B) In the case of a simplified employee pension, where contributions are also made pursuant to, and in conformance with, the provisions of Section 408(k) of the Internal Revenue Code of 1954, as amended by Public Law 97-34, the net income attributable to the nondeductible portion of such contributions shall not be includable in the gross income of the individual for whose benefit the plan was established for the taxable year or for succeeding taxable years until distributed pursuant to the provisions of the plan or by operation of law.

(3) (A) If, during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or his beneficiary engages in any transaction prohibited by Section 4975 of the Internal Revenue Code of 1954 as amended by Public Law 95-596 with respect to such account, such account ceases to be an individual retirement account as of the first day of such taxable year. For purposes of this paragraph—

(i) The individual for whose benefit any account was established is treated as the creator of such account and

(ii) The separate account for any individual within an individual

retirement account maintained by an employer or association of employees is treated as a separate individual retirement account.

(B) In any case in which any account ceases to be an individual retirement account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subdivision (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

(4) If during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract ceases to be an individual retirement annuity as of the first day of such taxable year. Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day.

(5) If, during any taxable year of the individual for whose benefit an individual retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

(6) If the assets of an individual retirement account or any part of such assets are used to purchase an endowment contract for the benefit of the individual for whose benefit the account is established—

(A) To the extent that the amount of the assets involved in the purchase are not attributable to the purchase of life insurance, the purchase is treated as a rollover contribution described in subdivision (d) (3), and

(B) To the extent that the amount of the assets involved in the purchase are attributable to the purchase of life, health, accident, or other insurance, such amounts are treated as distributed to that individual (but the provisions of subdivision (f) do not apply).

(7) Any common trust fund or common investment fund of individual retirement account assets which is exempt from taxation under this part does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under Section 17631 which is described in Section 17501.

(f) (1) If a distribution from an individual retirement account or under an individual retirement annuity to the individual for whose benefit such account or annuity was established is made before such individual attains age 59½, his tax under this article for the taxable year in which such distribution is received shall be increased by an amount equal to 2.5 percent of the amount of distribution which is includable in his gross income for such taxable year.

(2) If an amount is includable in gross income for a taxable year under subdivision (e) and the taxpayer has not attained age 59½ before the beginning of such taxable year, his tax under this article for such taxable year shall be increased by an amount equal to 2.5 percent of such amount so required to be included in his gross income.

(3) Paragraphs (1) and (2) do not apply if the amount paid or

distributed, or the disqualification of the account or annuity under subdivision (e), is attributable to the taxpayer becoming disabled within the meaning of Section 17112.5(f).

(g) This section shall be applied without regard to any community property laws.

(h) For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in Section 17502.3(a)) or another person who demonstrates, to the satisfaction of the Franchise Tax Board, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subdivision (a). For purposes of this part, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

(i) The trustee of an individual retirement account and the issuer of an endowment contract described in subdivision (b) or an individual retirement annuity shall make such reports regarding such account, contract, or annuity to the Franchise Tax Board and to the individuals for whom the account, contract, or annuity is, or is to be, maintained with respect to contributions, distributions, and such other matters as the Franchise Tax Board may require under regulations. The reports required by this subdivision shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

(j) In the case of a simplified employee pension, this section shall be applied by substituting " fifteen thousand dollars ($15,000)" for "two thousand dollars ($2,000)" in the following provisions:

(1) Paragraph (1) of subdivision (a), and

(2) Paragraph (2) of subdivision (b).

(k) (1) For purposes of this part, the term "simplified employee pension" means an individual retirement account or individual retirement annuity with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subdivision are met.

(2) This paragraph is satisfied with respect to a simplified employee pension for a calendar year only if for such year the employer contributes to the simplified employee pension of each employee who—

(A) Has attained age 25, and

(B) Has performed service for the employer during at least three of the immediately preceding five calendar years. For purposes of this paragraph, there shall be excluded from consideration employees described in subparagraph (A) or (C) of paragraph (1) of subsection (b) of Section 410 of the Internal Revenue Code of 1954 as amended by Public Law 96-605.

(3) (A) The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year if for such year

the contributions made by the employer to simplified employee pensions for his employees do not discriminate in favor of any employee who is—

(i) An officer,

(ii) A shareholder,

(iii) A self-employed individual, or

(iv) Highly compensated.

(B) For purposes of subparagraph (A)—

(i) There shall be excluded from consideration employees described in subparagraph (A) or (C) of Section 410(b)(2) of the Internal Revenue Code of 1954, as amended by Public Law 96-605, and

(ii) An individual shall be considered a shareholder if he owns (with the application of Section 17384) more than 10 percent of the value of the stock of the employer.

(C) For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless—

(i) Contributions thereto bear a uniform relationship to the total compensation not in excess of the first two hundred thousand dollars ($200,000) of each employee maintaining a simplified employee pension, and

(ii) If compensation in excess on one hundred thousand dollars ($100,000) is taken into account under a simplified employee pension for an employee, contributions to a simplified employee pension on behalf of each employee for whom a contribution is required are at a rate (expressed as a percentage of compensation) not less than 7.5 percent.

(D) Except as provided in this subparagraph, employer contributions do not meet the requirements of this paragraph unless such contributions meet the requirements of this paragraph without taking into account contributions or benefits relating to tax on self-employment income, relating to Federal Insurance Contributions Act, Title II of the Social Security Act, or any other federal or state law. Taxes paid under Section 3111 of the Internal Revenue Code of 1954, as amended by Public Law 95-216 (relating to tax on employers) with respect to an employee may, for purposes of this paragraph, be taken into account as a contribution by the employer to an employee's simplified employee pension. If contributions are made to the simplified employee pension of an owner-employee, the preceding sentence shall not apply unless taxes paid by all such owner-employees under Chapter 2 of the Internal Revenue Code of 1954, as amended by Public Law 97-34, and the taxes which would be payable under Chapter 2 by such owner-employees but for paragraphs (4) and (5) of Section 1402(c) of the Internal Revenue Code of 1954, as amended by Public Law 95-600, are taken into account as contributions by the employer on behalf of such owner-employees.

(4) A simplified employee pension meets the requirements of this

paragraph only if—

(A) Employer contributions thereto are not conditioned on the retention in such pension of any portion of the amount contributed, and

(B) There is no prohibition imposed by the employer on withdrawals from the simplified employee pension.

(5) The requirements of this paragraph are met with respect to a simplified employee pension only if employer contributions to such pension are determined under a definite written allocation formula which specifies—

(A) The requirements which an employee must satisfy to share in an allocation, and

(B) The manner in which the amount allocated is computed.

(6) For purposes of this subdivision and subdivision (*l*)—

(A) The terms "employee", "employer", and "owner-employee" shall have the respective meanings given such terms by Section 17502.2.

(B) The term "compensation" means, in the case of an employee within the meaning of Section 17502.2(a), earned income within the meaning of Section 17502.2(b).

(*l*) An employer who makes a contribution on behalf of an employee to a simplified employee pension shall provide such simplified reports with respect to such contributions as the Franchise Tax Board may require by regulations. The reports required by this subsection shall be filed at such time and in such manner, and information with respect to such contributions shall be furnished to the employee at such time and in such manner, as may be required by regulations.

(m) (1) The acquisition by an individual retirement account or by an individually directed account under a plan described in Section 17501 (a) of any collectible shall be treated (for purposes of this section and Section 17503) as distribution from that account in an amount equal to the cost to that account of that collectible.

(2) For purposes of this subdivision, the term "collectible" means—

(A) Any work of art,

(B) Any rug or antique,

(C) Any metal or gem,

(D) Any stamp or coin,

(E) Any alcoholic beverage, or

(F) Any other tangible personal property specified by the Franchise Tax Board for purposes of this subdivision.

(3) This subdivision shall apply to property acquired after December 31, 1981, in taxable years ending after that date.

(n) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 191. Section 17530.1 of the Revenue and Taxation Code is amended to read:

17530.1. (a) For purposes of this section and Section 17240(a), the term "retirement bond" means a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary of the Treasury of the United States or his delegate under such act—

(1) Provides for payment of interest, or investment yield, only on redemption;

(2) Provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after the date of its issuance;

(3) Provides that it ceases to bear interest, or provide investment yield on the earlier of—

(A) The date on which the individual in whose name it is purchased (hereinafter in this section referred to as the "registered owner") attains age 70½; or

(B) Five years after the date on which the registered owner dies, but not later than the date on which he would have attained the age 70½ had he lived;

(4) Provides that, except in the case of a rollover contribution described in subdivision (b) (3) (C) or in Section 17503(d), 17511(e), 17512(a) or 17530(d) (3), the registered owner may not contribute on behalf of any individual for the purchase of such bonds in excess of two thousand dollars ($2,000) for any taxable year; and

(5) Is not transferable.

(b) (1) Except as otherwise provided in this subdivision, on the redemption of a retirement bond the entire proceeds (excluding nontaxable interest) shall be included in the gross income of the taxpayer entitled to the proceeds on redemption. If the registered owner has not tendered it for redemption before the close of the taxable year in which he attains age 70½, such individual shall include in his gross income for such taxable year the amount of proceeds he would have received if the bond had been redeemed at age 70½. The provisions of Sections 17101 to 17112.7, inclusive, and Sections 18183 to 18185, inclusive (relating to bonds and other evidences of indebtedness) shall not apply to a retirement bond.

(2) The basis of a retirement bond is the amount of contributions not allowed as a deduction under Section 17240 or 17241 on account of the purchase of the bond.

(3) Exceptions:

(A) If a retirement bond is redeemed within 12 months after the date of its issuance, the proceeds are excluded from gross income if no deduction is allowed under Section 17240 on account of the purchase of such bond.

(B) If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½, the proceeds from the redemption of the bond are excluded from the gross income of the registered owner to the extent that such proceeds were includable in his gross income for such taxable year.

(C) If a retirement bond is redeemed at any time before the close of the taxable year in which the registered owner attains age 70½,

and the registered owner transfers the entire amount of the proceeds from the redemption of the bond to an individual retirement account described in Section 17530(a) or to an individual retirement annuity described in Section 17530(b) (other than an endowment contract) which is maintained for the benefit of the registered owner of the bond, or to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, an annuity plan described in Section 17511, or an annuity contract described in Section 17512 for the benefit of the registered owner, on or before the 60th day after the day on which he received the proceeds of such redemption, then the proceeds shall be excluded from gross income and the transfer shall be treated as a rollover contribution described in Section 17511(e). This subparagraph does not apply in the case of a transfer to such an employees' trust or such annuity plan unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such an employees' trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan). This subparagraph does not apply in the case of a transfer to an annuity contract described in Section 17512 unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such annuity contract.

(c) (1) If a retirement bond is redeemed by the registered owner before he attains age 59½, his tax under this article for the taxable year in which the bond is redeemed shall be increased by an amount equal to 2.5 percent of the amount of the proceeds of the redemption includable in his gross income for the taxable year.

(2) Paragraph (1) does not apply for any taxable year during which the retirement bond is redeemed if, for that taxable year, the registered owner is disabled within the meaning of Section 17112.5(f).

(3) Paragraph (1) does not apply if the registered owner tenders the bond for redemption within 12 months after the date of its issuance.

(d) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning after December 31, 1981.

SEC. 192. Section 18405.5 of the Revenue and Taxation Code is amended to read:

18405.5. If the requirements of Section 18401 do not apply, any individual who is a nonresident for all or any portion of the taxable year shall be required to file a return, regardless of the amount of his adjusted gross income, if he is required to pay any tax imposed by this part .

SEC. 193. Section 23186a of the Revenue and Taxation Code is amended and renumbered to read:

23186.1. The Franchise Tax Board, after public hearing and opportunity given to examine the data on which its determination is

based, shall determine not later than the 31st day of January of the second calendar year following the calendar year and fiscal year to which the rate of tax is applicable the average percentage of net income specified in Section 23186. Within 30 days after its determination, the Franchise Tax Board shall mail notice of its determination and the amount of tax payable or refundable, as the case may be, on the basis of such determination to all banks and financial corporations affected thereby, which are then classified on its records as banks or financial corporations. If additional tax is payable such determination shall be treated as a notice and demand for payment but shall not be considered a deficiency assessment within the meaning of Article 1 of Chapter 20. The data gathered by the Franchise Tax Board in determining the rate, referred to herein, shall be made available to the taxpayers affected by such determination at the time and in the manner prescribed by regulations adopted by the Franchise Tax Board.

SEC. 194. Section 25402 of the Revenue and Taxation Code is amended to read:

25402. (a) The Franchise Tax Board may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this part or by regulations. No such extension or extensions shall aggregate more than seven months from the due date for filing the return.

(b) An extension of seven months for the filing of the return of taxes imposed by this part shall be allowed any bank or corporation if, in such manner and at such time as the Franchise Tax Board may by regulations prescribe, there is filed on behalf of such bank or corporation the form prescribed by the Franchise Tax Board, and if such bank or corporation pays, on or before the date prescribed for payment of the tax, the amount properly estimated as provided in Section 25561 or 25562; but this extension may be terminated at any time by the Franchise Tax Board by mailing to the taxpayer notice of such termination at least 10 days prior to the date for termination fixed in such notice.

SEC. 195. Section 25954 of the Revenue and Taxation Code is amended to read:

25954. (a) Notwithstanding the provisions of the preceding sections of this article, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax paid on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser—

(1) The tax shown on the return of the taxpayer for the preceding income year if a return showing a liability for tax was filed by the taxpayer for the preceding year and such preceding year was a year of 12 months. The tax shown on the return, in the case of the tax imposed by Article 3 (commencing with Section 23181) of Chapter

2, means the amount of tax shown on the return for the income year as prescribed in Section 25553.

(2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding taxable year.

(3) (A) With respect to payments of estimated tax required to be paid during income years ending on or before November 30, 1972, an amount equal to 80 percent of the tax for the taxable year computed by placing on an annualized basis the taxable income for the first three months or for the first five months of the income year.

(B) With respect to payments of estimated tax required to be paid during income years beginning after December 31, 1971, an amount equal to 80 percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

(i) For the first three months of the income year, in the case of the installment required to be paid in the fourth month,

(ii) For the first three months or for the first five months of the income year, in the case of the installment required to be paid in the sixth month,

(iii) For the first six months or for the first eight months of the income year in the case of the installment required to be paid in the ninth month, and

(iv) For the first nine months or for the first 11 months of the income year, in the case of the installment required to be paid in the 12th month of the taxable year.

(C) For purposes of this paragraph, the taxable income shall be placed on an annualized basis by—

(i) Multiplying by 12 the taxable income referred to in subparagraph (A) or (B), and

(ii) Dividing the resulting amount by the number of months in the income year referred to in subparagraph (A) or (B).

"Taxable income" as used in this section means, in the case of the tax imposed by Chapter 2 (commencing with Section 23101), income includable in the measure of the tax.

(b) (1) (A) Except as provided in subdivision (c) and subparagraph (B), in the case of a large corporation, paragraphs (1) and (2) of subdivision (a) shall not apply.

(B) For income years beginning before 1984, in the case of a large corporation, the amount treated as the estimated tax for the income year under paragraphs (1) and (2) of subdivision (a) shall in no event be less than the applicable percentage of—

(i) The tax shown on the return for the income year, or

(ii) If no return was filed, the tax for such year.

(C) For purposes of subparagraph (B), the applicable percentage shall be determined in accordance with the following table:

If the income year begins in:	The applicable percentage is:

1982	65
1983	75

(2) For purposes of this subdivision, the term "large corporation" means any corporation or bank if that corporation or bank (or any predecessor corporation) had taxable income of one million dollars ($1,000,000) or more for any income year during the testing period.

(3) For purposes of this subdivision, the term "testing period" means the three income years immediately preceding the income year involved.

(c) (1) (A) Except as provided in subparagraph (B), in the case of a large worldwide corporation, paragraphs (1) and (2) of subdivision (a) shall not apply.

(B) For income years beginning after 1981, in the case of a large worldwide corporation, the amount treated as the estimated tax for the income year under paragraphs (1) and (2) of subdivision (a) shall in no event be less than the applicable percentage of—

(i) The tax shown on the return for the income year, or

(ii) If no return was filed, the tax for that year.

(C) For purposes of subparagraph (B), the applicable percentage shall be determined in accordance with the following table:

If the income year begins in:	The applicable percentage is:
1982	65
1983 and thereafter	70

(2) For purposes of this subdivision, the term "large worldwide corporation" means any corporation or bank if that corporation or bank (or any predecessor corporation or bank)— (A) had taxable income of one million dollars ($1,000,000) or more for any income year during the testing period, and (B) included during the testing period, for purposes of the tax imposed by this part, income and apportionment factors of one or more banks or corporations which derive all of their income from sources outside the United States which are not subject to the income taxes imposed by Subtitle A of the United States Internal Revenue Code.

(3) For purposes of this subdivision, the term "testing period" means the three income years immediately preceding the income year involved.

SEC. 196. Section 26482 is added to the Revenue and Taxation Code, to read:

26482. (a) Ten million dollars ($10,000,000) of the amount of taxes collected which is attributable to the excess of the bank tax rate over the general tax rate provided in Section 23151 for the income year ending in 1981 shall be transferred by the Controller from the General Fund to the Local Agency Reimbursement Fund, which is hereby created.

All money deposited in the Local Agency Reimbursement Fund is

hereby appropriated to the Controller, to be distributed on or before February 28, 1983, in the following manner:

(1) One-half shall be distributed to each city, city and county, and county based on the proportion that the certified population of each city, city and county, and county bears to the total population of this state. The county allocation shall be determined based on the proportion that the population residing in the unincorporated area of the county bears to the total population of this state.

(2) One-half shall be distributed to each city, city and county, and county based on the proportion that the salaries and wages of employees of banks and financial corporations in each city, city and county, and county paid during the income year ending in 1981 bears to the total salaries and wages of employees of banks and financial corporations in this state. The county allocation shall be determined based on the proportion that the salaries and wages of employees of banks and financial corporations in the unincorporated area of the county bears to the total salaries and wages of employees of financial institutions in the state. The term "wages" means wages as defined by Section 926 of the Unemployment Insurance Code.

(c) Nothing in this section shall be construed to affect in any way pre-existing law relating to whether local agencies can impose or collect a business license tax on banks and financial institutions.

SEC. 197. Section 3016 is added the Vehicle Code, to read:

3016. New vehicle dealers and other licensees under the jurisdiction of the New Motor Vehicle Board shall be charged fees sufficient to fully fund the board's activities.

SEC. 198. Section 1808 of the Welfare and Institutions Code is amended to read:

1808. Application by individual counties for funding under this article shall be made in the manner and form prescribed by the director. The application shall be limited to a simple certification that the funds will be spent for the purposes set forth in subdivision (a) of Section 1806.

SEC. 199. Section 1812.5 is added to the Welfare and Institutions Code, to read:

1812.5. Notwithstanding the provisions of Sections 1812 and 1815, commitment rates shall not be calculated nor enforced for the 1982–83 fiscal year. For the 1982–83 fiscal year, the application required by Section 1805 shall be limited to a simple certification that the funds will be spent for the purposes set forth in subdivision (a) of Section 1806.

SEC. 200. Section 4638 is added to the Welfare and Institutions Code, to read:

4638. Non-profit corporations operating regional centers shall not use state funds allocated to the corporation for operating the center for activities directly related to influencing employees of the center regarding their decision to organize or not to organize and to form a union or to join an existing union because these activities are not directly related to the purchase of services to clients. State funds shall

not be used for these activities by the officers or employees of the corporation itself, by the officers or employees of the regional center, or by an independent contractor, consultant or attorney.

State funds shall not be used to litigate the issue of the application of the National Labor Relations Act to, nor the jurisdiction of the National Labor Relations Board over, non-profit corporations operating regional centers.

Nothing in this section shall be construed as limiting the employers rights under Section 8(c) of the National Labor Relations Act. Nothing in this section shall be construed as limiting the use of state funds by the regional center in the employment of, or for contracting for, assistance in good faith collective bargaining or in handling employee grievances, including arbitration, under an employee-employer contract.

SEC. 201. Section 4657 is added to the Welfare and Institutions Code, to read:

4657. The Department of Developmental Services shall, through the regional center contract, insure that the following information is collected by each regional center for each new case and is also collected at each review of current clients. The department shall insure that the information is obtained for all regional center clients in out-of-home placement by July 1, 1983.

Information shall include:

1. The social security number of the parents of the client.
2. The birthday of the parents of the client.
3. The disability status of the parents of the client.
4. Whether the parents of the client are deceased or not.

SEC. 202. Section 4658 is added to the Welfare and Institutions Code, to read:

4658. The Department of Developmental Services shall insure that all potentially eligible clients are referred to the Social Security Administration for eligibility determination for Old Age Survivors Disability Insurance (OASDI). The department shall submit a report to the Legislature by April 1, 1983, on the results of the referrals.

SEC. 203. Section 4677 is added to the Welfare and Institutions Code, to read:

4677. All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan. In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

On or before October 1, 1982, the State Council on Developmental Disabilities shall request from all regional centers information on priority services needed but currently unavailable. Based on the information provided by the regional centers and other local

agencies, the State Council on Developmental Disabilities shall annually develop an assessment of the level of need for new community programs. This needs assessment shall be included in the state plan. The State Council on Developmental Disabilities, in consultation with the Department of Developmental Services, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

Parental fee schedules shall be evaluated pursuant to the provisions of Section 4785 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of such care and the ability of the family to pay.

In addition to parental contributions and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when such funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department until June 30, 1983, for the purposes of this section. In no event shall any such funds revert to the General Fund, except after June 30, 1983. Prior to July 1, 1983, the Department of Finance shall review the utilization and effectiveness of the Program Development Fund and shall report its findings to the Legislature.

The Legislative Analyst shall review and comment on the utilization and effectiveness of the Program Development Fund in connection with the annual budget hearings.

The department may allocate funds from the Program Development Fund for any legal purpose, provided, that requests for proposals and such allocations are approved by the state council, in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of such allocations on other state supported programs for developmentally disabled persons.

(2) The information on priority services needed but currently unavailable submitted by the Regional Centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than new program development only when specifically appropriated to the Department of Developmental Services for such other purposes.

Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state

general funds deposited in the Program Development Fund.

SEC. 204. Section 11201 of the Welfare and Institutions Code is amended to read:

11201. For the purposes of this chapter, "unemployed parent" means a natural or adoptive parent with whom the child is living.

(a) A child shall be considered to be deprived of parental support or care due to the unemployment of his or her parent or parents when either of the following conditions is met:

(1) The parent qualifies as an unemployed parent in accordance with the standards for unemployed parents set by the federal government.

(2) The parent does not qualify as an unemployed parent in accordance with federal standards, but the parent meets the conditions of eligibility set forth in subdivision (b).

(b) Except as specified in paragraph (5), a parent who does not meet the federal standards for unemployed parents shall be an unemployed parent for the purposes of this chapter and a family eligible for aid only if the parent meets all of the following conditions of eligibility:

(1) The parent is not working or is employed only part time as determined in accordance with standards which may be developed by the department by regulation. The standards shall be consistent with federal law governing part-time employment for unemployed parents.

(2) If the parent is not ill, incapacitated, or over age 65, the parent shall register for employment and cooperate with the Employment Development Department, and shall either: (A) be available for and seeking employment or, (B) be accepted for, or participate in, a training program which has been approved by the department and which is essential for future support.

(3) Notwithstanding the provisions of Section 11270, the parent shall apply for, meet all conditions of eligibility for, and accept any unemployment insurance benefits for which he or she may be eligible.

(4) The parent shall not have refused a bona fide offer of employment without good cause, including additional employment if the parent is employed only part time, or has terminated his or her employment without good cause within the 30 days immediately prior to the beginning date of aid or while receiving aid. The State Department of Social Services shall develop standards for determining good cause, which standards shall be consistent with the standards for good cause developed by the federal government in the work incentive program and consistent with the purposes of this chapter. When the Department of Social Services finds that a parent has refused or terminated employment without good cause, the family shall be ineligible for aid for 30 days.

(5) When one parent in the home (A) is employed fulltime, or (B) qualifies, or would qualify but refuses to do so, as an unemployed parent in accordance with the standards for unemployed parents set

by the federal government, the other parent is not an unemployed parent for the purposes of this chapter unless the parent qualifies as an unemployed parent under paragraph (1) of subdivision (a).

Whenever a family's eligibility for aid is based upon parental unemployment, the term "unemployed parent" shall mean the principal wage earner, as defined by federal law.

SEC. 205. Section 11265 of the Welfare and Institutions Code is amended to read:

11265. (a) The county shall redetermine eligibility annually. The county shall at the time of the redetermination, and may at other intervals as may be deemed necessary, require the family to complete a certificate of eligibility containing a written declaration of the information that may be required to establish the continuing eligibility and amount of grant pursuant to Section 11004.

(b) The certificate shall include blanks wherein shall be stated the names of all children receiving aid, their present place of residence, the names and status of any other adults living in the home, the name, and if known, the social security number and present whereabouts of a parent who is not living in the home, and any outside income that may have been received through employment, gifts, or the sale of real or personal property.

Each adult member of the family shall provide, under penalty of perjury, the information necessary to complete the certificate.

(c) If the certificate is mailed to the family, it shall be accompanied by a stamped envelope for its return. In the event the certificate is not completed and returned within 10 days after it is mailed or personally delivered to the family, a home visit or other personal meeting shall be made to or with the family, and the certificate shall then be completed with the assistance of the eligibility worker, if needed.

The department may adopt regulations providing for waiver of the deadline for returning the completed certificate when the recipient is considered to be mentally or physically unable to meet the deadline.

SEC. 206. Section 11265.1 is added to the Welfare and Institutions Code, to read:

11265.1. In addition to the requirement for the annual redetermination of eligibility, the department shall establish regulations consistent with federal law to implement a recipient monthly reporting system for use in determining monthly eligibility and the amount of the grant. The department shall define what constitutes a complete report and shall specify the deadlines for submitting a complete report, as well as the consequences of, and good cause for, failure to submit a complete report.

SEC. 207. Section 11315 is added to the Welfare and Institutions Code, to read:

11315. (a) The Department of Social Services shall establish a state-only unemployed parent program for those parents meeting the conditions of eligibility set forth in subdivision (b) of Section

11201. This program shall be known as the "State-only AFDC-U Program." Eligibility under this program shall be limited to three months in any 12 consecutive months.

(b) Persons who receive payment under subdivision (b) of Section 11201 or June 30, 1982, if otherwise eligible, shall be qualified for three months of aid commencing on July 1, 1982. Persons who enter the program on or after July 1, 1982, shall be eligible for three months of aid beginning on the date aid is first received.

(c) For the purposes of this section, if neither parent has a connection to the labor force, as defined by federal law, the family may designate the primary wage earner.

SEC. 208. Section 11316 is added to the Welfare and Institutions Code, to read:

11316. Administrative costs under the Emergency Assistance Program created pursuant to Section 11315 shall be the same as the sharing ratio for county administration under Section 15200.

SEC. 209. The amount of nine hundred twelve thousand dollars ($912,000) is hereby reappropriated from Item 5180-101-001 of the Budget Act of 1982 and the amount of one million eight hundred twenty-four thousand dollars ($1,824,000) is hereby reappropriated from Item 5180-101-890 of the Budget Act of 1982 to the Department of Social Services for the purposes of implementing the program provided pursuant to Section 11315.

SEC. 210. Notwithstanding any other provision of law, including the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Social Services in order to implement the provisions of Section 11315 shall not be subject to the review and approval of the Office of Administrative Law until 120 days after the regulations take effect. The regulations shall not remain in effect more than 120 days unless the agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

The Department of Social Services shall report to the Joint Legislative Budget Committee, and the fiscal committee of each house on the impact of the three-month time limitations on the AFDC-U federal program as well as the counties General Relief Programs. This report shall be made on or before March 15, 1983.

SEC. 211. Section 11318 is added to the Welfare and Institutions Code, to read:

11318. It is the intent of the Legislature in enacting this section, that counties provide employment-related services to recipients of aid, to the extent feasible, within 30 days after aid is first received.

At the county's option counties may register recipients in the Employment Preparation Program as defined in Section 11326, a job search assistance program or any other employment-related program provided by the county, the Employment Development Department, or the local CETA office.

In addition, counties may provide work experience assignments,

for unemployed parents receiving aid under this chapter who have completed job search assistance workshops and are still unemployed and for whom such work experience assignments are appropriate based upon an assessment by the county. Primary participants will be designated unemployed parent from two-parent AFDC families.

A work experience assignment shall provide all of the following:

(a) Appropriate standards for health, safety, and other conditions applicable to the performance of work.

(b) Assignments which do not result in displacement of persons currently employed, or the filling of established unfilled position vacancies.

(c) Reasonable conditions for work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants.

(d) Participants shall not be required to travel an unreasonable distance from their homes or remain away from their homes overnight.

(e) The maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member divided by the greater of the federal or the applicable minimum wage. In no event shall the hours of required work exceed 32 hours in four days of any given workweek, the fifth day of the workweek remaining for job search.

(f) Transportation and other costs reasonably necessary and directly related to participation in the assignment.

The work experience assignment shall be in public and private nonprofit agencies which meet the requirements of subdivision (e) of Section 5007.5 of the Unemployment Insurance Code.

SEC. 212. Section 11319 is added to the Welfare and Insitutions Code, to read:

11319. Counties which elect to provide employment and training services shall be responsible for the nonfederal costs of all work-related expenses, work incentives, and the administrative costs. However, counties shall be reimbursed in an amount not to exceed two hundred and nineteen dollars ($219) per participant to defray the costs of employment-related activities. Reimbursement shall be made to the extent that federal funds are available and claimable under the federal Emergency Assistance Program.

SEC. 213. Section 11407.3 is added to the Welfare and Institutions Code, to read:

11407.3. Regulations adopted to implement an Emergency Assistance Program or to qualify for federal funds therefor, or both, shall be adopted as emergency regulations.

These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code until 20 days after the

regulations take effect. These regulations shall become effective immediately upon filing with the Secretary of State, but shall not remain in effect for more than 120 days unless the department complies with the other provisions of Chapter 3.5.

SEC. 214. Section 11452 of the Welfare and Institutions Code is amended to read:

11452. Minimum basic standards of adequate care shall be distributed to the counties and shall be binding upon them. The standards are determined on the basis of the schedule set forth in this section, as adjusted for cost-of-living increases or decreases pursuant to Section 11453, which schedule is designed to insure:

(1) Safe, healthful housing.

(2) Minimum clothing for health and decency.

(3) Low-cost adequate food budget meeting recommended dietary allowances of the National Research Council.

(4) Utilities.

(5) Other items including household operation, education and incidentals, recreation, personal needs, and insurance.

(6) Allowance for essential medical, dental, or other remedial care to the extent not otherwise provided at public expense.

The schedule of minimum basic standards of adequate care is as follows:

Number of needy persons in the same family	Minimum basic standards of adequate care
1	$248
2	408
3	506
4	601
5	686
6	771
7	846
8	922
9	996
10	1,071

plus seven dollars ($7) for each additional needy person.

The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this section.

SEC. 215. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. The amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living occurring after December 1981, so that the first such adjustment becomes effective July 1, 1983, and subsequent adjustments shall take effect each July 1 thereafter. However, a cost-of-living adjustment may be provided for the period from July 1, 1982, to June 30, 1983, inclusive, to the

extent funds are provided therefor by the Budget Act of 1982. The cost of living adjustment shall be calculated by the Commission on State Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(a) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$1,832
Clothing (Apparel and Upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$5,723

(b) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(c) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(d) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in subdivision (b) and (2) dividing the sum by 100.

(e) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in subdivision (d).

(f) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in subdivision (d) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

SEC. 216. Section 11459 of the Welfare and Institutions Code is repealed.

SEC. 217. Section 12200 of the Welfare and Institutions Code is amended to read:

12200. An aged, blind or disabled applicant or recipient shall be paid an amount of aid which when added to his or her federal benefit received under Part A of Title XVI of the Social Security Act and other nonexempt income and resources, equals the following:

(a) For a blind applicant or recipient, the sum of five hundred six dollars ($506) per month and for a married couple both qualifying for benefits under this chapter as blind, the sum of nine hundred eighty-five dollars ($985) per month.

(b) For a married couple, both qualifying for benefits under this chapter, and one of whom is blind, the sum of nine hundred twenty-nine dollars ($929) per month.

(c) For an aged or disabled applicant or recipient, the sum of four hundred fifty-one dollars ($451) per month.

(d) For a married couple both qualifying for benefits under this chapter as aged or disabled, the sum of eight hundred thirty-eight dollars ($838) per month.

(e) For an aged or disabled applicant or recipient under subdivision (c) or for a married couple under subdivision (d) whose living arrangement prevents preparation of his or her or their meals at home shall be entitled to an allowance of forty-eight dollars ($48) per month for an individual and ninety-seven dollars ($97) per month for a married couple in addition to any other amount he or she is entitled to under this chapter.

(f) For a disabled minor under 18 living with a parent or guardian or relative by blood or marriage, the sum of three hundred fifty-eight ($358) per month.

(g) For a recipient in a nonmedical out-of-home care facility, the sum of five hundred ten dollars ($510) per month.

(h) For the personal and incidental needs of a person receiving care in a medical facility under the Medi-Cal Act, the sum of twenty-five dollars ($25) per month.

(i) In the case of any individual or couple whose federal benefit received under Part A of Title XVI of the Social Security Act is reduced in accordance with Section 1612(a)(2)(A) of Public Law 92-603 because he lives in another person's household and receives support and maintenance-in-kind from such person, the appropriate grant level set forth in subdivision (a), (b), (c), or (d) of this section shall be reduced by the amount of the reduction in the federal

benefit, subject to the provisions in Section 12204.

This subdivision shall be operative only during such time that such in-kind support and maintenance, under federal law, is treated as providing the basis for a lower payment standard rather than being treated as the receipt of unearned income.

SEC. 218. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. The payment schedules to go into effect July 1, 1983, and on July 1 of each year thereafter, shall be the amounts set forth in Section 12200, as adjusted to reflect any increases or decreases in the cost of living occurring after December 1, 1981. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(a) The base period expenditure amounts for each expenditure category within the California Necessity Index used to compute the annual grant adjustment are:

Food	$1,832
Clothing (apparel and upkeep)	298
Fuel and other utilities	264
Rent, residential	2,303
Transportation	1,026
Total	$5,723

(b) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(c) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(d) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in subdivision (b) and

(2) dividing the sum by 100.

(e) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in subdivision (d).

(f) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in subdivision (d) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

Notwithstanding any other provision of this section or any other provision of law, a cost-of-living adjustment may be made for any program for which a cost-of-living adjustment is computed pursuant to this section for the period from July 1, 1982, to June 30, 1983, inclusive, to the extent funds are provided therefor by the Budget Act of 1982.

SEC. 219. Section 12201.5 of the Welfare and Institutions Code is amended to read:

12201.5. Notwithstanding the provisions of Section 12201, the amount applicable under that section to a disabled minor residing in a nonmedical out-of-home facility with a nonrelative guardian shall be the amount specified in subdivision (g) of that section, as adjusted for cost-of-living pursuant to that section. However, a cost-of-living adjustment may be provided for the period from July 1, 1982, to June 30, 1983, inclusive, to the extent funds are provided therefor by the Budget Act of 1982.

SEC. 220. Section 12303.5 of the Welfare and Institutions Code is amended to read:

12303.5. Except as provided in Section 12304, no one individual recipient shall receive services under this article, the total cost of which exceeds five hundred eighty-one dollars ($581) in any one month. The five hundred eighty-one dollars ($581) maximum

specified under this section shall be adjusted annually to reflect cost-of-living changes occurring subsequent to January 1, 1982, as determined under Section 12201. However, a cost-of-living adjustment may be provided for the period from July 1, 1982, to June 30, 1983, inclusive, to the extent funds are provided therefor by the Budget Act of 1982.

SEC. 221. Section 12303.7 of the Welfare and Institutions Code is amended to read:

12303.7. Any aged, or disabled applicant or recipient who is eligible for assistance under this article, whose disabilities prevent the use of cooking facilities at home, shall be given the option to receive an allowance of forty-seven dollars ($47) per month for an individual and ninety-four dollars ($94) per month for a married couple in lieu of the appropriate in-home food preparation and consumption services. The allowance under this section shall be in addition to any amount that the applicant or recipient is entitled to under this chapter. This allowance shall not have the effect of exceeding the total cost maximum of Sections 12303.5 and 12304. Nothing in this section shall be construed to limit the applicant's or recipient's right to receive the allowance under this section and all other homemaker and chore services.

The State Department of Social Services shall adjust the amount of the allowance under this section on July 1, 1983, and each year thereafter to reflect cost-of-living changes subsequent to January 1, 1982, as provided under Section 12201. However, a cost-of-living adjustment may be provided for the period from July 1, 1982, to June 30, 1983, inclusive, to the extent funds are provided therefor by the Budget Act of 1982.

SEC. 222. Section 12304 of the Welfare and Institutions Code is amended to read:

12304. (a) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500) who is in need, as determined by the county welfare department, of at least 20 hours per week of the services specified in subdivision (e), shall be eligible to receive services under this article, the total cost of which does not exceed eight hundred thirty-eight dollars ($838) per month, plus adjustments reflecting cost-of-living changes subsequent to January 1, 1982, as determined under Section 12201. However, a cost-of-living adjustment may be provided for the period from July 1, 1982, to June 30, 1983, inclusive, to the extent funds are provided therefor by the Budget Act of 1982. Increases in the maximum amount payable under this section shall not be construed to mean automatic increases in the amounts payable under this article.

(b) An individual who is eligible for services subject to the maximum amount specified in subdivision (a) and who is capable of handling his or her own financial and legal affairs shall be given the option of hiring and paying his or her own provider of in-home supportive services. For this purpose the individual shall be entitled

to receive a monthly cash payment in advance not to exceed the maximum amount specified in subdivision (a), which is in addition to his or her grant, if any. An individual who is not capable of handling his or her own financial and legal affairs shall be entitled to receive the cash payment through his or her guardian, conservator, or protective payee.

(c) In no event shall the maximum total cost for services and advance cash payment for one individual recipient under subdivisions (a) and (b) exceed the maximum of eight hundred thirty-eight dollars ($838) per month, as adjusted pursuant to subdivision (a).

(d) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to the services.

(e) For purposes of this section, a recipient who is eligible for services subject to the maximum amount specified in subdivision (a) is one who requires in-home supportive care of at least 20 hours per week to carry out any or all of the following:

(1) Routine bodily functions, such as bowel and bladder care.
(2) Dressing.
(3) Preparation and consumption of food.
(4) Moving into and out of bed.
(5) Routine bed bath.
(6) Ambulation.
(7) Paramedical services.
(8) Any other function of daily living as determined by the director.

This determination of need must be supported by a medical report when requested and at the expense of the State Department of Social Services.

(f) The county welfare department shall review the provisions of services under this section at least every six months.

SEC. 223. Section 14005.9 of the Welfare and Institutions Code is amended to read:

14005.9. (a) Share of cost shall be determined on a monthly basis. No person or family shall be required to incur more than one month's share of cost prior to being certified as specified in Section 14018.

(b) For persons in long-term care, any income exempted under Sections 14005.4 and 14005.7 shall be considered in the share-of-cost determination to the extent required by federal law or regulations.

SEC. 224. Section 14017 of the Welfare and Institutions Code is amended to read:

14017. On a regional pilot project basis, the department may issue an identification card to a person eligible for Medi-Cal program benefits under Section 14005.1, 14005.4, or 14005.7 who is certified, but is not in possession of a valid California driver's license or identification card issued by the Department of Motor Vehicles. The identification card shall contain his or her picture, social security number, identifying characteristics, and signature. This provision

shall not apply to:

(a) Persons age 12 and under.

(b) Recipients of aid under Title XVI of the Social Security Act.

(c) Persons in long-term institutional status.

SEC. 225. Section 14017.5 of the Welfare and Institutions Code is amended to read:

14017.5. The department shall not issue identification cards to Medi-Cal recipients on a statewide basis until (1) a pilot project has been completed which indicates that the General Fund savings from reduced unauthorized use of Medi-Cal cards more than offsets the costs of issuing the identification cards, and (2) the Legislature has specifically appropriated the funds necessary to issue identification cards to Medi-Cal beneficiaries.

If identification cards are issued by the department on a pilot project or statewide basis, the department shall notify providers that current Medi-Cal beneficiaries have been issued identification cards in accordance with Section 14017. At that time, it shall be the responsibility of the provider prior to rendering nonemergency Medi-Cal reimbursable services to persons presenting themselves as Medi-Cal beneficiaries to verify the person's identity by matching the name and signature on their identification card issued by the department or their valid California driver's license or California identification card issued by the Department of Motor Vehicles, against a signature executed at the time of service and further by visually verifying their likeness to the photograph on the identification card or driver's license.

SEC. 226. Section 14103.4 of the Welfare and Institutions Code is amended to read:

14103.4. The director, with the advice of the Medicaid Advisory Committee required by federal law or regulation, shall determine which of the health care and related remedial or preventive services are elective. The director and the committee shall consult with representatives of providers of such services before making a determination.

SEC. 227. Section 14109.5 of the Welfare and Institutions Code is amended to read:

14109.5. Notwithstanding the provisions of Section 14109, effective January 1, 1982, the reimbursement rate for costs specified in Section 14109 shall, to the extent feasible, not exceed the reimbursement rate for similar services established under this chapter.

The fiscal intermediary shall expedite the implementation of any change order resulting only from this section. The department shall provide sufficient funding for any such change order to enable the fiscal intermediary to implement such change order expeditiously and to not have to divert staff or other resources from existing contract tasks, including but not limited to those resources dedicated to the implementation of all other change orders.

SEC. 228. Section 14110.1 of the Welfare and Institutions Code is

amended to read:

14110.1. Medi-Cal reimbursements for long-term care in any hospital shall be at a rate not to exceed the maximum rate paid for long-term care in skilled nursing facilities which are distinct parts of acute care hospitals, except for patients whose medical or nursing needs exceed the level of care provided in skilled nursing facilities.

SEC. 229. Section 14132.4 is added to the Welfare and Institutions Code, to read:

14132.4. Nurse-midwifery services provided by a certified nurse-midwife shall be covered under the provisions of this chapter, to the extent required by federal law, subject to utilization controls.

SEC. 230. Section 14153 of the Welfare and Institutions Code is amended to read:

14153. Funds shall be advanced monthly to the respective counties for costs of administration of the Medi-Cal program in the manner prescribed in Chapter 9 (commencing with Section 15000) of this part.

Funds may be advanced monthly to the respective counties for the costs of care under the provisions of this chapter upon the order of the Director of Finance and the State Director of Health Services utilizing resources made available through the Health Care Deposit Fund.

County welfare departments may submit administrative claims no later than 18 months after the close of the quarter in which the costs were paid. State General Fund moneys shall not be used to reimburse county welfare departments for services billed later than 18 months after the close of the quarter in which the costs were paid.

SEC. 231. Section 15200.4 of the Welfare and Institutions Code is amended to read:

15200.4. (a) In administering the provisions of law and regulations related to the Aid to Families with Dependent Children program, the director may impose sanctions as provided by this section to assure adequate county administration performance.

The director may hold counties financially liable for aid paid to ineligible persons and aid paid to eligible persons in excess of the amount to which they are entitled as represented by a dollar error rate. There shall be established annually in the Budget Act a dollar error rate standard which shall be the basis for computing a county's liability under this section for the two subsequent quality control review periods for which error rates are generated, commencing with the Budget Act of 1980. For the two quality control periods commencing with the 1979–80 fiscal year, the director shall submit to the Joint Legislative Budget Committee no later than January 30, 1980, the dollar error rate standard to be in effect during those two periods. For those counties in excess of the dollar error rate standard, liability shall not exceed the product of the error rate in excess of the standard multiplied by the total expenditures for aid paid under the program.

Nothing herein shall limit county liability for exceptions taken

against claims for costs incurred prior to July 1, 1978, which are determined to be improper.

(b) If a federal fiscal sanction is imposed against the state as a result of the state's dollar error rate being above the federally established tolerance level, the director shall pass the sanction on to the counties in accordance with regulations adopted by the director which establish a method for equitable distribution of the sanction. The amount assessed to any county may be reduced or set aside if the director finds that extenuating circumstances existed and that imposition of the full sanction amount would unfairly penalize the county.

SEC. 232. Section 16147 of the Welfare and Institutions Code is repealed.

SEC. 233. Section 16147 is added to the Welfare and Institutions Code, to read:

16147. (a) The State Department of Social Services shall establish a policy of parental financial responsibility in the costs of providing maternity home care only insofar as this policy does not serve as a deterrent to the pregnant person securing such care.

(b) The department shall design an intake form to be used by licensed maternity home care providers. This intake form shall be used to assess parental or guardian willingness and ability to share in the costs of the care. The intake form shall include, but need not be limited to, all of the following information:

(1) Family income.

(2) Family size.

(3) Availability of medical insurance coverage.

(4) Parental willingness to participate in the costs of care.

(c) This intake assessment shall be performed with sensitivity to the pregnant person's psychological and emotional needs as well as taking into account any possible detrimental affects fixing parental financial responsibility would have on future family reunification efforts.

(d) The State Department of Social Services shall develop and implement a copayment policy based on the ability to pay and the size of the client's family. Under no circumstances shall a family be held financially responsible for part, or all, of the costs of care when the family income is 200 percent of the poverty level or less.

(e) Family financial participation shall only be sought in those cases where there is an expressed willingness to pay by the minor's parents or guardian.

(f) The State Department of Social Services shall promulgate emergency regulations in order to expedite the copayment schedule. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 234. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county health services plan and budget shall be financed in each county, the City of Berkeley, and each existing local health district with assistance from the County Health Services Fund in accordance with the following:

(a) For each county, an annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(2) The amount calculated for the county in subdivision (a).

(c) (1) The amount of assistance from the County Health Services Fund for the County of Alameda, as determined in subdivision (b), shall include an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(2) The amount of assistance from the County Health Services Fund for the City of Berkeley shall be an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(3) The amount of assistance from the County Health Services Fund for the San Joaquin Local Health District shall be that amount set forth in the Budget Act of 1981 for that purpose for the 1981–82 fiscal year.

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) On July 1, 1980, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. On July 1, 1981, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and shall be adjusted to reflect the funds transferred pursuant to Section 12 of Chapter 1004 of the Statutes of 1981. On July 1, 1982, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and the increases, if any, in the appropriations provided for in the Budget Act for the 1982–83 fiscal year. On July 1, 1983, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c),

and (d), as adjusted pursuant to this subdivision for the 1982–83 fiscal year, shall be adjusted to reflect any increases or decreases in the cost of living occurring during the 1982 calendar year and each year thereafter. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisons (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

SEC. 235. Section 16705.5 is added to the Welfare and Institutions Code, to read:

16705.5. (a) Notwithstanding the provisions of Section 16705, a county may reduce, pursuant to a waiver granted at the discretion of the State Director of Health Services in consultation with the Department of Finance, portions of its county match required to receive state funds for county health services programs. In no event may a county reduce its required match by more than 20 percent for any one of the programs specified.

A county may reduce its matching requirements only if the State Director of Health Services, in consultation with the Department of Finance, has determined all of the following:

(1) The county has exhausted all its reserves, has minimal fund balances, and has minimal interest earnings.

(2) The county's financial distress has left it unable to budget the amount required for match to obtain its maximum allocation.

(3) The county's reductions in public health services proposed in its county health services plan and budget are not proportionately greater than the county's reductions in other services funded from the county general fund for the 1982–83 fiscal year.

(4) The county's share is less than 30 percent of the total countywide property tax revenue, as shown in the 1980–81 Annual Report of the California State Board of Equalization.

Prior to submitting a request for waiver to the State Director of Health Services, the county shall hold a public hearing on its proposed request for waiver. The county shall post notice of the hearing at least 15 days prior to the hearing. Notice shall be posted in all county health facilities and other appropriate public areas and shall be published in a local newspaper of general circulation.

All data, information, memoranda, and budgets upon which the request for the waiver will be based shall be made available for public inspection at the county at least 10 days prior to the public hearing on the request for the waiver.

The county shall submit to the State Director of Health Services, along with its request for the waiver, all testimony, evidence, comments, whether written or oral, presented at the public hearing

or received prior to the close of the public hearing.

(b) This section shall remain in effect until June 30, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1983, deletes or extends that date.

SEC. 236. Section 16706 of the Welfare and Institutions Code is amended to read:

16706. (a) Commencing in the 1980–81 fiscal year, the distribution of funds pursuant to this part shall be made prospectively on a quarterly basis in accordance with regulations of the department. The director shall make adjustments in succeeding fiscal years for failure to comply with the terms of the agreement.

(b) Each local jurisdiction receiving funds pursuant to Section 16704 shall submit the following reports to the department in the form and according to the procedures established by the department:

(1) A report of established actual expenditures, revenues, and net county costs for the services provided in accordance with the county health services plan and budget for the fiscal year for which the agreement with the local jurisdiction was in effect. This report shall be provided by November 15 of the fiscal year following the close of the fiscal year for which the agreement with the local jurisdiction was in effect, unless an extension of this date is formally granted by the department, and shall serve as the initial basis for recovery of funds not expended in accordance with the agreement. The department shall initiate recoupments to the extent feasible by March 15 of the fiscal year following the fiscal year for which the agreement with the local jurisdiction was in effect.

(2) A report of actual expenditures, revenues, and net county costs for the services provided in accordance with the county health services plan and budget for the fiscal year for which the agreement with the local jurisdiction was in effect. This report shall be provided by November 15 of the second fiscal year following the close of the fiscal year for which the agreement with the local jurisdiction was in effect, unless an extention of this date is formally granted by the department, and shall serve as the final basis for recovery of funds not expended in accordance with the agreement, unless modified by actual audit findings officially adopted by the state. The department shall initiate recoupments to the extent feasible by March 15 of the fiscal year following the fiscal year for which the agreement with the local jurisdiction was in effect.

(c) The director shall withhold, in part or in whole, payment of county health services funds to a local jurisdiction, until the reports specified in subdivision (b) have been received by the department.

SEC. 237. Section 19350 of the Welfare and Institutions Code is amended to read:

19350. The Legislature reaffirms its intent that habilitation services for developmentally disabled adults should be planned and provided as a part of a continuum and that habilitation services should be available to enable persons with developmental disabilities

to approximate the pattern of everyday living available to nondisabled people of the same age. The Legislature further intends that habilitation services shall be provided to adults with developmental disabilities as specified in this chapter in order to guarantee the rights stated in Section 4502. For the 1982–83 fiscal year habilitation services shall be provided to the extent funds are provided therefor by the Budget Act of 1982.

SEC. 238. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. The department shall promulgate regulations to establish rates, after consulting with the State Department of Developmental Services and subject to the approval of the Department of Finance, by July 1, 1980. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of the service. Reasonable costs shall be determined and audited by the department annually. For the 1982–83 fiscal year, rate increases provided by the department from funds appropriated for price and provider rate increases shall not exceed the average percent increase provided for in the Budget Act of 1982.

SEC. 239. (a) Notwithstanding the provisions of Section 6217 of the Public Resources Code, revenues, moneys, and remittances received by the State Lands Commission and deposited in the State Treasury pursuant to Section 6217 of the Public Resources Code shall be subject to the special allocations specified in this section for the 1982–83 fiscal year. The provisions of this section shall be applicable only to the 1982–83 fiscal year and, except as otherwise expressly provided in this section, the sums deposited in the State Treasury pursuant to Section 6217 of the Public Resources Code shall be applied to the obligations specified in that section.

(b) For the 1982–83 fiscal year, the allocations specified in Section 6217 of the Public Resources Code shall be revised as follows:

(1) The amount of forty-seven million two hundred thousand dollars ($47,200,000) shall be deposited in the State School Building Lease-Purchase Fund pursuant to Section 12 of Chapter 998 of the Statutes of 1981.

(2) The amount of fourteen million seven hundred ten thousand dollars ($14,710,000) shall be deposited in the California Water Fund pursuant to subdivision (b) of Section 6217 of the Public Resources Code.

(3) No amount shall be deposited in the Central Valley Water Project Construction Fund pursuant to subdivision (c) of Section 6217 of the Public Resources Code.

(4) The amount of seventy-one million one hundred thirty-three thousand dollars ($71,133,000) shall be deposited in the Capital Outlay Fund for Public Higher Education pursuant to subdivision (e) of Section 6217 of the Public Resources Code.

(5) The amount of fifty-two million eight hundred thousand

dollars ($52,800,000) shall be deposited in the State School Building Lease-Purchase Fund pursuant to subdivision (f) of Section 6217 of the Public Resources Code.

(6) The amount of sixty-four million sixty-six thousand dollars ($64,066,000) shall be deposited in the Energy and Resources Fund pursuant to subdivision (g) of Section 6217 of the Public Resources Code.

(7) The amount of twelve million four hundred seventeen thousand dollars ($12,417,000) shall be deposited in the State Parks and Recreation Fund pursuant to subdivision (h) of Section 6217 of the Public Resources Code.

(8) No amount shall be deposited in the Transportation Planning and Development Account in the State Transportation Fund pursuant to subdivision (i) of Section 6217 of the Public Resources Code.

(9) The amount of fifty-four million seven hundred and twenty-five thousand dollars ($54,725,000) shall be deposited in the Special Account for Capital Outlay in the General Fund pursuant to subdivision (j) of Section 6217 of the Public Resources Code.

(10) The amount of one million dollars ($1,000,000) shall be deposited in the Off-Highway Vehicle Fund.

(11) The amount of four hundred thousand dollars ($400,000) shall be transferred to the Resources Agency for distribution to public and private higher education for use as up to two-thirds of the local matching share for prospects under the National Sea Grant College Program Act of 1966 (P.L. 89-688).

(c) Any revenue in excess of that distributed pursuant to Section 6217 of the Public Resources Code and subdivision (b) of this section shall be deposited in the unappropriated surplus of the General Fund.

SEC. 240. Section 2 of Chapter 113 of the Statutes of 1978 is amended to read:

Sec. 2. The Student Aid Commission shall apportion funds for the support of planning grants and pilot projects designed to increase the accessibility of postsecondary educational opportunities to low-income high school students and assist low-income community college students, upon completion of their community college programs, to transfer to four-year institutions. Such projects shall primarily (1) increase available information for low-income students on the existence of postsecondary schooling and work opportunities, and (2) raise the achievement levels of low-income students so as to increase the number of low-income high school graduates and community college students eligible to pursue postsecondary learning opportunities. Projects supported by the commission shall also meet the following criteria:

(a) Each project shall be proposed and operated interinstitutionally, involving at least one community college and two of the following educational agencies: school districts, regional occupational centers and programs, nonprofit educational,

counseling, or community agencies, eligible proprietary schools, the University of California, independent colleges and universities, or the State University and Colleges. The commission, in awarding project grants, shall give priority to proposals developed by more than two eligible agencies. At least one pilot project shall be located in a rural area. At least one pilot project shall include a private college.

(b) Prior to receiving a pilot project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not limited to, the following information: (1) the agencies participating in the pilot project, (2) the students to be served by the project, (3) the ways in which the project will reduce duplication and related costs, (4) the methods for assessing the project's impact, and (5) the alternative means for long-term support of the project.

(c) At least 30 percent of each project grant shall be allocated for stipends to peer advisers and tutors who (1) work with low-income high school and community college students, (2) are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student, and (3) have demonstrated financial need for the stipend.

(d) The activities of each project should enhance the activities of existing educational opportunity programs.

The Student Aid Commission may develop additional regulations regarding the award of project grants.

As used in this act "eligible proprietary schools" shall include proprietary schools accredited by a national, state, or regional accrediting association recognized by the United States Office of Education.

(e) The commission shall establish a 15-member project grant advisory committee to advise project directors and the commission on the development and operation of the pilot projects, and consisting of: three educational opportunity program directors, representing the University of California, the California State University and Colleges, and the Board of Governors of the California Community Colleges, appointed by their respective governing boards; one representative of private colleges and universities, appointed by the Association of Independent Colleges and Universities; one representative of the California Postsecondary Education Commission, appointed by the Postsecondary Education Commission; one representative of proprietary schools, appointed by the Council for Private Postsecondary Educational Institutions; and two persons representing the general public, one each appointed by the Speaker of the Assembly and the Senate Rules Committee. The Student Aid Commission shall appoint the following additional members to the advisory committee: two counselors from secondary schools located in low-income communities; one representative from a regional occupation center; two students participating in the Educational Opportunity Program, one of whom shall also be a

disadvantaged community college student; one representative of the Student Aid Commission; and one campus financial aid director.

Pilot projects authorized by this section shall not continue beyond June 30, 1984, without additional action by the Legislature.

SEC. 241. Notwithstanding any other provision of law, the maximum security facilities, constructed in whole or in part, with funds appropriated in the Budget Act of 1982 to the Department of Corrections for capital outlay, may provide for the installation of a temporary bunk in each cell. No other features may be designed, or constructed, to exceed the inmate capacity specified under the provisions of subdivision (d) of Section 1 of Chapter 1135 of the Statutes of 1979 and Section 3 of Chapter 1122 of the Statutes of 1980.

SEC. 242. Sections 2 and 3, Sections 97 to 99, inclusive, Sections 106 and 107, and Sections 109 to 113, inclusive, of this act shall become operative January 1, 1982.

SEC. 243. Sections 162 and 164 of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

SEC. 244. It is the intent of the Legislature that this bill will be used for the ratification of memoranda of understanding reached pursuant to collective bargaining between recognized employee organizations and the Department of Personnel Administration.

SEC. 245. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the Governor or the Governor's authorized representative and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 1—California State Employees' Association, dated June 23, 1982.

(b) Unit 2—Association of California State Attorneys, dated June 22, 1982.

(c) Unit 3—California State Employees' Association, dated June 23, 1982.

(d) Unit 4—California State Employees' Association, dated June 23, 1982.

(e) Unit 5—California Association of Highway Patrolmen, dated June 22, 1982.

(f) Unit 6—California Correctional Officers Association, dated June 22, 1982.

(g) Unit 8—California Department of Forestry Employees' Association, dated June 22, 1982.

(h) Unit 9—Professional Engineers in California Government, dated June 22, 1982.

(i) Unit 10—California State Employees' Association, dated June 23, 1982.

(j) Unit 11—California State Employees' Association, dated June 23, 1982.

(k) Unit 12—California State Employees' Association, dated June 23, 1982.

(*l*) Unit 13—International Union of Operating Engineers, dated June 22, 1982.

(m) Unit 14—California State Employees' Association, dated June 23, 1982.

(n) Unit 15—California State Employees' Association, dated June 23, 1982.

(o) Unit 16—Union of American Physicians and Dentists, dated June 24, 1982.

(p) Unit 17—California State Employees' Association, dated June 23, 1982.

(q) Unit 18—Communications Workers of America, dated June 24, 1982.

(r) Unit 19—American Federation of State, County, and Municipal Employees, dated June 23, 1982.

(s) Unit 20—California State Employees' Association, dated June 23, 1982.

SEC. 246. Notwithstanding any other provision of law, on the effective date of this act, two million eight hundred thousand dollars ($2,800,000) of the unencumbered balance of the Local Agency Indebtedness Fund shall be transferred to the unappropriated surplus of the General Fund.

SEC. 247. Upon the effective date of this act, the Controller shall transfer the amount of fifty million dollars ($50,000,000) from the General Fund to Section A of the State School Fund. The Superintendent of Public Instruction shall apportion this amount to school districts, in addition to any other funds, based upon the average daily attendance used in estimating apportionments for the second principal apportionment.

School districts receiving funds pursuant to this section may expend these funds only in expenditure categories of the School Accounting Manual which do not include expenditures for salaries or employee benefits.

The provisions of this section shall not become effective unless the Board of Administration of the Public Employees' Retirement System authorizes the transfer of funds, from the reserve against deficiencies, to the state employer accounts in the amount required by subdivision (b) of Section 20603.5 of the Government Code and in an amount sufficient to fund the employee benefits provided by the memoranda of understanding described in Section 245 of this act for the 1982–83 fiscal year.

SEC. 248. If the Governor's Budget as submitted on January 10, 1983, estimates the Reserve for Econominc Uncertainties on June 30, 1983, to be an amount greater than four hundred sixty-six million dollars ($466,000,000), the Controller shall transfer the amount of fifty million dollars ($50,000,000) from the Reserve for Economic Uncertainties to Section A of the State School Fund, to be allocated in the manner provided by Section 247.

SEC. 249. It is the intent of the Legislature that cities which existed but did not levy a property tax in 1977–78 shall receive an in-lieu allocation from the state pursuant to Item 9100-101-001 of the Budget Act of 1982 for their loss of revenue caused by the elimination of the subventions provided pursuant to former Section 25761 of the Business and Professions Code, former Section 4306 of the Public Utilities Code, and former Section 26483 of the Revenue and Taxation Code.

SEC. 250. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 251. The provisions of this act shall not become operative unless and until the Budget Act of 1982 becomes law.

SEC. 252. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. However, a local agency or school district may pursue any remedies which may be available to it to obtain any reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

SEC. 253. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act, which would provide necessary statutory adjustments to implement the Budget Act of 1982, may take effect during the 1982–83 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 328

An act to amend Sections 1442 and 1442.5 of the Health and Safety Code, to amend Sections 5624, 5705, 11153, 14005, 14005.1, 14005.4, 14005.12, 14006, 14008, 14011, 14016, 14019, 14052, 14103.4, 14104.3, 14105, 14105.3, 14105.7, 14106, 14109.5, 14115, 14123, 14132, 14132.1, 14134, 14172, 14172.5, 14173, 14653, and 14665 of, to add Sections 5705.1, 14005.10, 14005.16, 14019.1, 14019.6, 14105.1, 14110.2, 14123.1, 14123.2, 14124.89, 14133.25, 14133.3, 14171.5, 14178, 14316, and 14491.5 to, to add Articles 2.6 (commencing with Section 14081), Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.9 (commencing with Section 14088), and Article 2.91 (commencing with Section 14089), to Chapter 7 of Part

3 of Division 9 of, to repeal Section 14005.13 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 1442 of the Health and Safety Code is amended to read:

1442. The board of supervisors in each county, prior to closing a county hospital or other county medical facility, eliminating any area of service in a county hospital or other county medical facility or reducing the level of services provided to indigents as of January 1, 1975, or prior to leasing, selling, or in any way transferring the management of a county hospital or other county medical facility, shall file with the State Department of Health Services and the appropriate areawide voluntary health planning agency the following:

(a) A description of the county's existing facilities and services, the board's proposal for changing those facilities or services.

(b) A copy of any contracts, agreements, or arrangements with any facility or individual to provide services to indigent people.

(c) The State Department of Health Services shall file annually with the Legislature a report of all such closings of facilities and reductions or elimination of services.

SEC. 2. Section 1442.5 of the Health and Safety Code is amended to read:

1442.5. Prior to closing a county facility, eliminating or reducing the level of services provided, or prior to the leasing, selling, or transfer of management, the board shall provide public notice, including notice posted at the entrance to all county health care facilities, of public hearings to be held by the board prior to their decision to proceed. Such notice shall be posted not less than 30 days prior to such public hearings. The notice shall contain a detailed list of the proposed reductions or changes.

The board shall make findings based on evidence and testimony from these hearings that their proposed action will or will not have a detrimental impact on the health care needs of the indigents of the county. Such findings shall be included as part of the official public hearing record.

Notwithstanding the board's closing of a county facility, the elimination of or reduction in the level of services provided, or the leasing, selling, or transfer of management of a county facility subsequent to January 1, 1975, the county shall provide for the fulfillment of its duty to provide care to all indigent people, either directly through county facilities or indirectly through alternative

means.

(a) Where this duty is fulfilled by a contractual arrangement with a private facility or individual, the facility or individual shall assume the county's full obligation to provide care to those who cannot afford it, and make their services available to Medi-Cal and Medicare recipients.

(b) Where this duty is fulfilled by alternative means, the facility or individual providing services shall be in compliance with Sections 441.18 and 1277.

(c) Whether this duty is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment received by people who cannot afford to pay for their health care shall be the same as that available to nonindigent people receiving health care services in private facilities in that county.

(d) The board shall designate an agency to provide: a 24-hour information service which can give eligible people immediate information as to the available services and access to them and an agency to receive and respond to complaints from people eligible for services under this chapter. The designated agency may be the agency which operates the facility. This subdivision shall apply only in instances in which there is a closing of a county facility, an elimination or reduction in the level of services provided, or the leasing, selling, or transfer of such a county facility.

(e) The board shall arrange for all facilities or individuals contracting to provide services to indigent people to be listed in the local telephone directory under county listings, and shall specify therein that such facilities or individuals fulfill the obligations of county facilities.

The provisions of Section 25371 of the Government Code do not relieve the county of the obligation to comply with the provisions of this section.

SEC. 2.1. Section 5624 of the Welfare and Institutions Code is amended to read:

5624. Each county mental health program shall establish by January 1, 1980, a quality assurance system that covers all county operated and county contracted mental health facilities and programs. As used in this section "quality assurance system" refers to a systematic approach for the evaluation of the quality of care which is designed to promote and maintain efficient, effective, and appropriate mental health services.

The quality assurance system shall contain at least the following components:

(a) Utilization review of all Short-Doyle funded inpatient services; to be submitted to the Legislature by September 30, 1982 and to be implemented on or before October 30, 1982;

(b) Interdisciplinary peer review of the quality of patient care;

(c) Monitoring of the medication regimens of Short-Doyle clients including procedures to review the appropriateness of the medications prescribed, the appropriateness of the dosage levels

prescribed, the effectiveness of the medications for the client, the occurrence of any adverse reactions, the extent of patient compliance, the level of patient information and ability to manage his own medication regimen; provided, that such monitoring shall be carried out by, be in conjunction with, or be under supervision of, a person licensed to prescribe or dispense prescription drugs.

The quality assurance system shall conform to the standards and guidelines for such systems established by the State Department of Mental Health, as specified in Section 4070.

The county's initial quality assurance system plan shall be approved by the Department of Mental Health by January 1, 1980, and shall thereafter be reviewed and approved by the Department of Mental Health annually.

SEC. 2.2. Section 5705 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 1042 of the Statutes of 1981, is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the rates established by the Director of Mental Health or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The State Department of Mental Health is hereby permitted to reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act, provided such reallocated funds shall not be counted into the base allocation.

This section shall become operative July 1, 1982, and shall remain in effect only until July 1, 1983, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date.

SEC. 2.3. Section 5705 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 1042 of the Statutes of 1981, is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent

state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the rates established by the Director of Mental Health or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services. It is the intent of the Legislature that counties under 100,000 population provide as much of the 10 percent match as possible for mental health, drug and alcohol programs within budgetary constraints.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The State Department of Mental Health is hereby permitted to reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act, provided such reallocated funds shall not be counted into the base allocation.

This section shall become operative July 1, 1983.

SEC. 2.4. Section 5705.1 is added to the Welfare and Institutions Code, to read:

5705.1. (a) The Director of Mental Health shall establish, by regulation, rates and methods of reimbursement governing the financing of services specified in the approved county Short-Doyle plans.

(b) In establishing rates, no rate shall exceed 125 percent of the statewide weighted average of the cost of services provided in accordance with the approved county Short-Doyle plans for the 1980–81 fiscal year. This shall not prohibit the adjustment of the rates for cost-of-living increases appropriated by the Legislature. This subdivision shall not apply to prepaid health plans.

(c) The Director of Mental Health, subject to the availability of funds, may approve a waiver of the 125 percent limitation set forth in subdivision (b) requested by the board of supervisors of a county if the county demonstrates that the imposition of the 125 percent limitation will result in a substantial inability to provide mental health services. The Department shall report annually to the Legislature as to the factors justifying waivers granted by it.

(d) The provisions of subdivision (b) shall not apply to consolidated mental health programs established in accordance with Article 5 (commencing with Section 14660) of Chapter 8.8 of Division 9.

(e) Notwithstanding the provisions of this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6, the facility's rates shall be governed by such agreement.

(f) The State Department of Mental Health shall promulgate regulations implementing the provisions of this article. The Director of the State Department of Mental Health shall adopt all regulations pursuant to subdivision (a) as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law; shall not be subject to approval by the California Conference of Local Mental Health Directors; shall not be subject to automatic repeal until 180 days after the regulations take effect; and shall become effective immediately upon filing with the Secretary of State.

SEC. 3. Section 11150 of the Welfare and Institutions Code is amended to read:

11150. It is the intent of this article to set forth the amount of personal or real property, or both, which an applicant for, or recipient of, public assistance may retain and remain eligible to receive public assistance provided he meets the other eligibility requirements for the category of public assistance for which he or she is an applicant or recipient.

In the formulation of any regulations pursuant to this article and in the administration thereof, consideration shall be given to the ability and circumstances of the applicant or recipient in order that undue hardship is not imposed upon any applicant or recipient in making plans to comply with the provisions of this article. No applicant or recipient shall be considered ineligible for retaining property where disposition would alter or impair reasonable access to, or the normal use of, his or her home.

This article does not apply to aid to families with dependent children or Chapter 3 (commencing with Section 12000) or Chapter 7 (commencing with Section 14000) of this part, unless otherwise expressly indicated.

SEC. 4. Section 14005 of the Welfare and Institutions Code is amended to read:

14005. The health care benefits and services specified in this chapter, to the extent that such services are neither provided under any other federal or state law nor provided nor available under other contractual or legal entitlements of the person, shall be provided under this chapter to any person who is a resident of this state and is made eligible by the provisions of this article. It is the intent of the Legislature that a provider shall look to such other contractual or legal entitlements for payment before submitting a bill for payment

under this chapter.

SEC. 5. Section 14005.1 of the Welfare and Institutions Code is amended to read:

14005.1. Except for adults receiving aid due to unemployment, for which federal financial participation is not obtainable pursuant to Chapter 2 (commencing with Section 11200), public assistance recipients are eligible for health care services under Section 14005, including persons who would be eligible for public assistance, except for the provisions of subdivision (b) of Section 11450.

SEC. 6. Section 14005.4 of the Welfare and Institutions Code is amended to read:

14005.4. (a) A medically indigent child who is under 21 years of age or an adult residing in a skilled nursing or intermediate care facility whose monthly income or family's income in excess of the amount required for maintenance established pursuant to Section 14005.12 (exclusive of any amounts considered exempt under the provisions of Chapter 2 (commencing with Section 11200) of this part) is not sufficient to provide for the costs of health care or coverage, less any amount by which the value of his or her other resources exceeds the value established in accordance with Section 14006, or a reasonable portion of such value thereof as may be determined in accordance with standards established by the director, is eligible for health care services under Section 14005.

(b) Included under this section are children in foster care for whom public agencies are assuming financial responsibility in whole or in part and persons receiving aid under Chapter 2.1 (commencing with Section 16115) or Part 4 of Division 9 of this code.

(c) The director may, to meet the requirements of the Federal Social Security Act, decrease or increase the eligibility standards for persons under this section.

(d) For the purposes of this section, "skilled nursing facility" shall also include distinct skilled nursing beds in acute care hospitals.

(e) For the purposes of this section, "intermediate care facility" shall include intermediate care facility for developmentally disabled and intermediate care facility for developmentally disabled/habilitative.

(f) For the purposes of this section, the schedule of benefits provided to medically indigent adults residing in skilled nursing facilities shall be limited to those services contained in subdivision (e) of Section 14132. The schedule of benefits provided to medically indigent adults residing in intermediate care facilities shall be limited to those benefits contained in subdivision (n) of Section 14132.

(g) Notwithstanding any other provision of law, no person of the age of 21 years or over shall qualify for aid under this section after January 1, 1983, unless that person is confined in a skilled nursing home or intermediate care facility.

SEC. 6.5. Section 14005.10 is added to the Welfare and Institutions Code, to read:

14005.10. Any county shall be permitted to assume responsibility for providing or arranging to provide health care services to persons eligible under Section 14005.4 who are 21 years of age or older, and not confined in a skilled nursing home or intermediate care facility. Each county may assume this responsibility on the first of any month prior to January, 1983, by sending a written declaration of intent to the department at least 45 days in advance. The declaration must include an assurance that the county will make appropriate and necessary health services available to the population specified in this section for the same medical and related conditions and problems covered by the Medi-Cal Program. The declaration must also include a finding by the county that assumption of responsibility on the date specified will mitigate the impact on the county of the January 1, 1983 amendments to Section 14005.4.

SEC. 7. Section 14005.12 of the Welfare and Institutions Code is amended to read:

14005.12. (a) For the purposes of Sections 14005.4, and 14005.7, except as specified in subdivisions (b) and (c), the department shall establish the income levels for maintenance need at the lowest levels at which federal financial participation will still be provided under Title XIX of the federal Social Security Act.

(b) For the purposes of Sections 14005.4 and 14005.7 for a person in long-term care the amount considered as required for maintenance per month shall be computed pursuant to regulations which provide for the following purposes:

(1) Personal and incidental needs while a patient.

(2) The upkeep and maintenance of the home.

(3) The support and care of his spouse, minor dependents and any disabled relative for whose support he has contributed regularly.

(4) If federal requirements permit such a person to own an automobile of greater value than is permitted in the case of recipients of aid under Chapter 3 of this part, the department shall adopt the more liberal allowance in its rules and regulations.

(c) When family members maintain separate residences, but eligibility is determined as a single unit under Section 14008, the income levels for maintenance per month shall be established for each household in accordance with subdivisions (a) to (e), inclusive. The total of these levels shall be the level for the single eligibility unit.

SEC. 8. Section 14005.13 of the Welfare and Institutions Code is repealed.

SEC. 8.3. In eliminating medically indigent adults from the Medi-Cal program, it is the intent of the Legislature to transfer funds to the counties to be consolidated with existing county health services funds in order to provide health services to low-income persons and other persons not eligible for the Medi-Cal program. In furtherance of this intent, all counties shall implement the provisions of this act relating to the medically indigent by January 1, 1983. However, counties, at their discretion, may implement the service

consolidation provisions of this act at any time prior to January 1, 1983.

It is further the intent of the Legislature to provide counties with as much flexibility as possible in organizing county health services to serve the population being transferred.

SEC. 8.5. Section 14005.16 is added to the Welfare and Institutions Code, to read:

14005.16. A county shall receive state funds to assist it in covering costs incurred by it as a result of changes in eligibility standards for medically indigent adults as defined in Sections 14005.4 and 14052.

(a) The amount of state funds shall be established and appropriated annually in the Budget Act. However, funds allocated for the 1982–83 fiscal year shall be 70 percent of the amount of Medi-Cal funds that would have been appropriated for the last six months of the 1982–83 fiscal year, including the costs of eligibility determinations.

(b) Funds allocated to the counties pursuant to this section shall be appropriated from the General Fund to a special account in the County Health Services Fund. The procedure used to allocate such funds to the counties shall be that specified in Part 4.5 (commencing with Section 16700) of Division 9 of this code, except that no matching funds shall be required.

(c) As a condition to receiving funds under this section, a county shall expand the county health services plan required of it under Section 16700 of this code to include the eligibility criteria that it will use in determining the allocation of services and funds as will be used by it as a result of the changes of eligibility standards for medically indigent adults. Also, as a condition of receiving state funds under this section, a county shall spend no less in any fiscal year for medical services for low-income persons and other persons not eligible for the Medi-Cal program than it spent in the 1981–82 fiscal year. The Department of Finance may exempt a county from this last requirement in cases of severe hardship.

(d) The amount of state funds to which each county shall be entitled under this section shall be determined as follows:

(1) Each county's percentage shall be determined on the basis of the average amount expended by the county for medically indigent adults, including that expended for eligibility determinations, for the fiscal years 1979–80, 1980–81, and 1981–82.

(2) There shall then be determined the ratio of the amount determined pursuant to subdivision (1) to the amount of the average expenditures of all counties for such purposes for that three-year period.

(3) The percentage derived from subdivision (2) shall be multiplied against the state funds available, and the amount derived shall be the county's share.

(e) In counties with populations under 300,000, as determined in accordance with the 1980 decennial census, the boards of supervisors may, but are not required to, request that state funds be provided to

the counties under this section. In lieu thereof, any such county may elect to enter into a contract with the department under which the department agrees to assume the program responsibility. Such a county may also elect to act jointly with other counties in assuming responsibility and claim state funds on a joint basis. In determining the allocation of funds for such counties, the Department of Finance shall take into account adjustments which may be required to meet costs, determined on an actuarial basis, reflecting an unusual level of services, and the department may retain a reasonable reserve to meet such situations. The department shall submit an annual report to the Legislature showing the bases used by it in fixing such reserve.

SEC. 9. Section 14006 of the Welfare and Institutions Code is amended to read:

14006. (a) For the purposes of Sections 14005.4 and 14005.7, the term "other resources" means the real or personal property, or any combination of both, held by a medically needy or medically indigent individual or family.

(b) The amount of other resources is limited to not more than one thousand five hundred dollars ($1,500) for an aged, blind or disabled individual, or not more than three thousand dollars ($3,000) for an aged, blind or disabled individual and his spouse. For a medically needy family person or for a medically indigent person or family, this limit shall be established at not less than one thousand five hundred dollars ($1,500) and not more than three thousand dollars ($3,000), in accordance with family size. In addition, a medically needy or medically indigent person or family may retain: (1) Other property in accordance with the provisions of Sections 11158 and 12152 of this code; (2) Real property other than the home, up to a value of six thousand dollars ($6,000) provided it is producing income for the individual or family reasonably consistent with its value; (3) Any additional resources allowed under the provisions of Title XVI of the Social Security Act.

(c) The director, to meet the requirements of the Federal Social Security Act and to insure the highest percentage of federal financial participation in the program provided by this chapter, may decrease or increase the amounts set forth herein.

(d) If the holdings are in the form of real property, the value shall be the assessed value, determined under the most recent county property tax assessment, less the unpaid amount of any encumbrance of record.

If the real property other than the home is not producing income reasonably consistent with its value, the applicant or recipient shall be allowed reasonable time to begin producing such income from the property. If the property cannot produce reasonable income or be sold based on the market value, the applicant or recipient shall be allowed to submit evidence from a qualified real estate appraiser which indicates the value for which the property can be adequately utilized or sold. If the applicant or recipient provides evidence that the only method of adequately utilizing the property is sale, and the

property has not been sold at market value during a reasonable period of time, the property shall be considered to be adequately utilized provided it is listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a bona fide and continuous effort is being made to sell the property.

(e) Any mortgage or note secured by a deed of trust shall be deemed real property if its value does not exceed six thousand dollars ($6,000) and it is obtained by the applicant or recipient, or in combination with his spouse, through the sale of such real property.

(f) If the holdings consist of money on deposit, the value shall be the actual amount thereof. If the holdings are in any other form of personal property or investment, except life insurance, the value shall be the conversion value as of the date of application or the anniversary date of such application. If the holdings are in the form of life insurance, the value shall be the cash value as of the policy anniversary nearest the date of such application.

(g) The value of property holdings shall be determined as of the date of application and, if the person is found eligible, this determination shall establish the amount of such holdings to be considered during the ensuing 12 months except a new determination to govern during the succeeding 12 months shall be made on the first anniversary date of the application or such alternate date as may be established following the acquisition of additional holdings as provided in the following paragraph and on each succeeding anniversary date thereafter.

(h) If any person shall by gift, inheritance, or other manner, acquire additional holdings during any such interval, other than from his own earnings, he shall immediately report such acquisition, and the anniversary date shall become the date of such acquisition.

SEC. 10. Section 14008 of the Welfare and Institutions Code is amended to read:

14008. (a) No relative, other than the spouse, shall be held to be financially responsible for the cost of health care received by an adult eligible under this chapter, except as provided in subdivisions (b) and (c).

(b) Except as provided in Section 14010, relative, other than the parent or parents of a child under the age of 18 years if a parent claims the child as a dependent in order to receive a tax credit or deduction for purposes of state or federal income taxation, shall be held to be financially responsible for the cost of health care or related services received by such child, otherwise eligible under this chapter.

(c) To the extent required by federal law, the parent or parents shall have such financial responsibility for any child 18 years of age or older but under the age of 21 years who is living in the home of the parent or parents.

SEC. 11. Section 14011 of the Welfare and Institutions Code is

amended to read:

14011. (a) Each applicant who is not a recipient of public assistance shall be required to file an affirmation setting forth such facts about his annual income and other resources and qualifications for eligibility as may be required by the department. Such statements shall be on forms prescribed by the department such statements shall be on forms prescribed by the department.

(b) To the extent permitted by federal law, eligibility for medical assistance for such applicants shall not be granted until the applicant or designated representative provides independent documentation verifying statements of gross income by type and source; income amounts withheld for taxes, health care benefits available through employment, retirement, military service, work related injuries or settlements from prior injuries, employee retirement contributions, and other employee benefit contributions, deductible expenses for maintenance or improvement of income-producing property and status and value of property owned, other than property exempt under the provisions of Section 14006. The director may prescribe those items of exempt property which the director deems should be verified as to status and value in order to reasonably assure a correct designation of those items as exempt.

(c) The verification requirements of subdivision (b) apply to income, income deductions and property both of applicants or medical assistance (other than applicants for public assistance) and to persons whose income, income deductions, expenses or property holdings must be considered in determining the applicant's eligibility and share of cost.

(d) A determination of eligibility and share of cost may be extended beyond otherwise prescribed time frames if, in the county department's judgment, and subject to standards of the director, the applicant or designated representative has good cause for failure to provide the required verification and continues to make a good faith effort to provide such verification.

(e) To the extent permitted by federal law, in addition to the other verification requirements of this section, a county department may require verification of any other applicant statements, or conduct a full and complete investigation of such statements, whenever such a verification or investigation is warranted in the judgment of the county department.

(f) If documentation is unavailable, as defined in regulations promulgated by the department, the applicant's signed statement as to the value or amount shall be deemed to constitute verification.

SEC. 12. Section 14016 of the Welfare and Institutions Code is amended to read:

14016. (a) The county in which the person resides, except as specified in subdivision (c), shall determine the eligibility of, each person pursuant to Sections 14005.1, 14005.4, and 14005.7 and Article 4.4 (commencing with Section 14140) of this chapter, except that the department may contract with the federal Social Security

Administration for the determination of Medi-Cal eligibility of persons eligible under Title XVI of the Social Security Act. Upon termination of such assistance, the county shall determine whether the person remains eligible for Medi-Cal coverage under one of these sections.

(b) The department shall institute an eligibility quality control program, with onsite state auditors who shall verify the eligibility determination of a statistically valid sampling of persons in each county granted Medi-Cal eligibility under Section 14005.4, 14005.7, or 14005.8 or Article 4.4 (commencing with Section 14140) of this chapter. The department shall report to the Legislature in May 1982, on the results of the quality control and on findings of errors.

(c) When family members maintain separate residences, but eligibility is determined as a single unit because of the provisions of Section 14008, the county in which the parent or parents reside shall determine the eligibility for the entire unit.

(d) In administering the provisions of law and regulations related to eligibility determination the director shall impose such sanctions as provided by this section to assure adequate county administrative performance.

(e) (1) The director shall hold counties financially liable for payments made on behalf of ineligible persons or persons with an incorrect share of cost as represented by a dollar payment error rate. There shall be established, annually, a dollar error rate standard which shall be the basis for computing a county's liability under this section commencing with the budget for the 1983–84 fiscal year to be applied on January 1, 1984. The standard for the 1983–84 fiscal year shall be developed by January 1, 1983, and the department shall submit a report to the Legislature pertaining to development of that standard by July 1, 1983. For those counties which exceed the dollar error rate standard, liability shall not exceed the product of the dollar payment error rate in excess of the standard multiplied by the total expenditures paid under the program. The director may grant exceptions to these counties if the department is unable to establish a statistically valid sample or if the error in an individual county rate is above the standard due to natural disaster, job actions, or other occurrences as determined by the director.

(2) Notwithstanding the provisions of paragraph (1), if fiscal sanctions are imposed by the Department of Health and Human Services against the State Department of Health Services as a result of California's eligibility dollar error rate being above the federally established tolerance level for the Medicaid Quality Control program, the director shall pass on to the counties that portion of the sanction which can be attributed to an individual county's failure to properly apply state laws and regulations. The State Department of Health Services shall develop a methodology for determining the amount of federal fiscal sanctions which shall be passed on to individual counties.

(3) When a county welfare department contravenes state

eligibility processing regulations and written instructions in a way that produces increased program benefits or administrative expenses but doesn't result in an increase in the eligibility dollar error rate, the director shall recoup from that county the additional administrative or program benefit costs above those which would have been incurred had that county not contravened the established state eligibility processing regulations and written instructions.

SEC. 13. Section 14019 of the Welfare and Institutions Code is amended to read:

14019. Notwithstanding the provisions of Section 14018, except as provided in Sections 14019.1 and 14019.6, a Medi-Cal card shall be authorization for payment for health care services rendered, under conditions prescribed by the director and to the extent required by federal law, during any of the three months immediately prior to the month in which application was made, and for which such person would have otherwise been eligible.

SEC. 14. Section 14019.1 is added to the Welfare and Institutions Code, to read:

14019.1. Any adult at least 21 years of age, who is eligible for services pursuant to Section 14005.4, except for an adult residing in a skilled nursing or intermediate care facility, shall not be eligible to receive services under this chapter for any of the three months immediately prior to the month in which application is made.

This section shall remain in effect only until January 1, 1983, and on that date is repealed.

SEC. 15. Section 14019.6 is added to the Welfare and Institutions Code, to read:

14019.6. Notwithstanding any other provision of law, no person, whose property reserve exceeds the property limit, may establish eligibility for any of the three months immediately prior to the month in which application was made, by spenddown of such excess property.

SEC. 16. Section 14052 of the Welfare and Institutions Code is amended to read:

14052. "Medically indigent person" means a person under 21 years of age, or a person 21 years of age or older who resides in a skilled nursing or intermediate care facility, who could not qualify as a public assistance recipient, a medically needy person, or a medically needy family person, for reasons other than income or resources but whose income and resources are insufficient to provide for the costs of health care, provided, that to the extent required by federal law, any person under the age of 21 years who could qualify as a medically needy person or a medically needy family person may, instead, qualify as a medically indigent person if the person so chooses.

SEC. 17. Article 2.6 (commencing with Section 14081) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.6. Selective Provider Contracts

14081. It is the purpose of this article to ensure that the Medi-Cal program shall be operated in the most cost-effective and efficient manner possible with the optimum number of inpatient hospital service providers. In order to carry out this purpose it is the specific intent of the Legislature that the special negotiator have maximum discretion and flexibility in order to select among various methods of arranging for the provision of health services while achieving significant cost savings. This article shall be the exclusive means of providing inpatient hospital services to recipients qualifying for such care under Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of this part.

14082. Notwithstanding any other provision of law, the Governor shall designate a person in his office to act as a special negotiator to negotiate rates, terms, and conditions for contracts with hospitals for inpatient services to be rendered to Medi-Cal program beneficiaries. The negotiator may also, if he or she deems it expedient, call for bids, in lieu of negotiations. The special negotiator shall consider, when contracting, the total funds appropriated for inpatient hospital services.

The department and every other state agency concerned with health care or public social services shall provide such assistance as the negotiator may require. The department shall enter into contracts with hospitals and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

In addition to the powers specified in this section, the negotiator has the authority to negotiate contracts under Article 2.8 (commencing with Section 14087.5) and Article 2.91 (commencing with Section 14089) of this chapter.

14082.5. The negotiator provided for in Section 14082 shall serve in such capacity for the 1982–83 fiscal year, after which his or her functions shall be assumed by the California Medical Assistance Commission. Commencing on July 1, 1983, any reference in this article or in Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of this chapter to the negotiator shall be deemed to be references to the California Medical Assistance Commission.

As of July 1, 1983, the negotiator shall serve as the executive director of the commission.

14083. The following factors to be considered by the negotiator in negotiating contracts under this article, or in drawing specifications for competitive bidding, include but are not limited to:

(a) Beneficiary access.

(b) Utilization controls.

(c) Ability to render quality services efficiently and economically.

(d) Demonstrated ability to provide or arrange needed specialized services.

(e) Protection against fraud and abuse.

(f) Any other factor which would reduce costs, promote access, or enhance the quality of care.

(g) The capacity to provide a given tertiary service, such as specialized childrens' services, on a regional basis.

(h) Recognition of the variations in severity of illness and complexity of care.

14084. Payments to the contractor may be either on a capitation or prepayment basis, or on a combination of both methods of payment, or such other methods as the negotiator determines to be feasible. Hospitals may assume all or part of the risk of utilization of services, or costs of services, or both.

14085. All utilization controls applied to inpatient hospital services by the director in accordance with Section 14133.1 shall continue to be applied to inpatient hospital services rendered under this article, except that the director may waive utilization controls which are no longer necessary in the case of hospitals entering into negotiated, capitated, at-risk contracts under this article.

14086. The provisions of this article relating to contracts with hospitals, to be negotiated or let out to bid by the negotiator, shall apply only to hospitals and shall not apply to hospital inpatient services rendered by health maintenance organizations, and other organized health systems, or state hospitals.

Health maintenance organizations may, however, not be required to utilize hospitals contracting under this article to provide services to enrolled beneficiaries of the plan.

14087. The provisions of this article shall not, however, be construed to preclude an otherwise qualified hospital from obtaining reimbursement as determined by the department based on rates paid to contract hospitals in the area to the extent permitted by federal law under this article for providing services to program beneficiaries in life threatening or other emergency situations, including reimbursement for transportation in such situations such as those that could result in permanent impairment.

14087.1. The department or its authorized agents shall conduct periodic onsite reviews of performance under any contract made pursuant to this article. Onsite reviews may evaluate the following:

(a) Level and quality of care, and the necessity and appropriateness of the services provided.

(b) Internal procedures for assuring efficiency, economy and quality of care.

(c) Grievances relating to medical care and their disposition.

(d) Financial records only when determined necessary by the department to protect public funds.

14087.2. It is the intent of the Legislature that for the 1982–83 fiscal year, regionalized and specialty hospitals, such as children's hospitals, need not contract under the provisions of this article. Services provided by such hospitals shall be reimbursed on the same basis that they were reimbursed on the day prior to the effective date of this section.

If such a hospital elects to contract pursuant to this article in the 1982–83 fiscal year, the negotiator shall give consideration to the special services provided in such hospitals, such as those services provided to children. The California Medical Assistance Commission shall continue to extend such consideration to specialty hospitals following the 1982–83 fiscal year.

14087.25. In order to achieve maximum cost savings the Legislature hereby determines that an expedited contract process for contracts under this article is necessary. Therefore, contracts under this article may be on a nonbid basis, and shall be exempt from the provisions of Chapter 6 (commencing with Section 14780), Part 5.5, Division 3 of the Government Code.

14087.26. In negotiating contracts pursuant to this article, the negotiator may designate a specific group of hospitals as the negotiating unit. The Legislature finds and declares that, in any case where the negotiator designates a group of hospitals for purposes of negotiation there is a compelling state interest in negotiating on this basis, thereby exempting such negotiations from federal antitrust provisions.

14087.27. Notwithstanding any other provision of law, judicial review pursuant to Section 1085 of the Code of Civil Procedure, shall be available to resolve disputes relating to the terms, performance, or termination of contracts entered into pursuant to this article, or any act, failure to act, conduct, order, or decision of the commission.

14087.28. A hospital contracting with the Medi-Cal program pursuant to this chapter, shall not deny medical staff membership or clinical privileges for reasons other than a physician's individual qualifications as determined by professional and ethical criteria, uniformly applied to all medical staff applicants and members. Determination of medical staff membership or clinical privileges shall not be made upon the basis of:

(a) The existence of a contract with the hospital or with others.

(b) Membership in or affiliation with any society, medical group or teaching facility or upon the basis of any criteria lacking professional justification, such as sex, race, creed or national origin.

SEC. 18. Article 2.7 (commencing with Section 14087.3) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institution Code, to read:

Article 2.7. Contracts With Noninstitutional Providers

14087.3. (a) The director may contract with individual physicians, groups of physicians or other providers to provide services to Medi-Cal beneficiaries. Such contract may include provisions to do the following:

(1) Promote case management.

(2) Provide for alternate methods of payment, including, but not limited to, a prospectively negotiated reimbursement rate, fee-for-service, retainer, capitation, or other basis.

(3) Permit the individual physicians, groups of physicians, or other providers to participate in a manner that supports the organized system mode of operation.

(4) Encourage group practices with relationships with hospitals having low unit costs.

(b) The director may require individual physicians, groups of physicians, or other providers as a condition of participation under the Medi-Cal program, to enter into capitated contracts pursuant to this section in order to correct or prevent irregular or abusive billing practices. No physician, groups of physicians, or other providers shall be reimbursed for services rendered to Medi-Cal beneficiaries if the physician, group of physicians, or other providers has declined to enter into a contract required by the director pursuant to this section.

14087.4. (a) Any contract made pursuant to this article may be renewed if the provider continues to meet the requirements of this chapter, regulations promulgated pursuant thereto, and the contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. The department may condition renewal on timely completion of a mutually agreed upon plan of correction of any deficiencies.

(b) The department may terminate or decline to renew a contract, in whole or in part, when the director determines that such action is necessary to protect the health of the beneficiaries or the funds appropriated to carry out the Medi-Cal program. Nonrenewal or termination under this article shall not qualify the applicant for an administrative hearing including a hearing pursuant to Section 14123.

(c) In order to achieve maximum cost savings the Legislature hereby determines that an expedited contract process for contracts under this article is necessary. Therefore contracts under this article may be on a nonbid basis, and shall be exempt from the provisions of Chapter 6 (commencing with Section 14780), Part 5.5, Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the State Department of Finance.

14087.45. The provisions of this article shall not become operative until July 1, 1983, the date upon which the California Medical Assistance Commission, created pursuant to Assembly Bill 3480, assumes its full responsibilities.

SEC. 19. Article 2.8 (commencing with Section 14087.5) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.8. County Health System

14087.5. The negotiator may negotiate exclusive contracts with any county which seeks to provide, or arrange for the provision of the health care services provided under this chapter. The negotiator shall establish regulations concerning the time for submittal of

proposed plans for a contract by a county, and for the time by which the negotiator shall decide whether or not to accept the county's proposal.

14087.55. The department shall enter into contracts with counties under this article, and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

14087.6. A county which has contracted for the provision of services pursuant to this article may provide the services directly to recipients, or arrange for any or all of the services to be provided by subcontracting with primary care providers, health maintenance organizations, insurance carriers, or other entities or individuals. The subcontracts may utilize a prospectively negotiated reimbursement rate, fee-for-service, retainer, capituation, or other basis for payment. The rate of payment established under the contract shall not exceed the total per capita amount which the department estimates would be payable for all services and requirements covered under the contract if all such services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program.

14087.7. To the extent that a county chooses to contract with primary care providers pursuant to this article, the county shall ensure that designation forms and appropriate information concerning primary care providers are given to beneficiaries.

14087.8. When the department has entered into a contract with a county pursuant to this article, the department shall monitor the level and quality of services provided in a county, as well as a county's expenditures pursuant to the contract, and shall ensure conformity with federal law.

14087.9. A combination of counties may contract with the department pursuant to this article for the provision of services on a regional basis.

SEC. 20. Article 2.9 (commencing with Section 14088) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.9. Primary Care Provider Case Management

14088. For the purposes of this article, the following definitions shall apply:

(a) "Primary care provider" means any internist, general practitioner, obstetrician/gynecologist, pediatrician or family practice physician or any primary care clinic, rural health clinic, community clinic or hospital outpatient clinic holding a valid and current Medi-Cal provider number, which agrees to provide case management to Medi-Cal beneficiaries.

(b) "Case management" means responsibility for referral, consultation, ordering of therapy, admission to hospitals, followup care, and prepayment approval of referred services.

(c) "Designation form" or "form" means a form supplied by the department to be executed by a Medi-Cal beneficiary and an eligible

primary care provider, setting forth the beneficiary's choice of primary care provider and an agreement to be limited by the case management decisions of that primary care provider and the provider's agreement to be responsible for that beneficiary's case management and medical care, as specified in this article.

14088.1. The department or a county which has contracted for the provision of services pursuant to this article may, within geographical areas designated by the department, enter into contracts with primary care providers. The contracts shall be on a capitated rate or risk sharing basis, or a combination of both. The rate of payment established under the contract shall not exceed the total per capita amount which the department estimates would be payable for all services and requirements covered under the contract if all such services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program.

14088.2. The primary care provider with whom a contract has been entered into pursuant to this article shall have responsibility for providing for case management as defined, pursuant to Section 14088.

14088.3. In those geographical areas in which the department has entered into contracts with primary care providers, the department shall, upon notification by a county of the eligiblity of a beneficiary, through the use of county staff, provide the beneficiary with a designation form, unless the beneficiary is enrolled in a health care plan. At the time the beneficiary receives the designation form, the department, through the use of county staff, shall also provide to the beneficiary, information as to those primary care providers who may provide case management services to the beneficiary. A beneficiary who has been provided with a designation form shall have a reasonable time, as prescribed by the department, in which to designate his or her primary care provider. An otherwise eligible beneficiary who is required to complete a designation form, but who has not completed the form within the time prescribed by the department, shall be ineligible for services under this article until such time as the designation form has been completed. If the beneficiary has designated a primary care provider within the required time period, but the designation form has not been agreed to by that provider, the eligibility of the beneficiary for services under this article shall not be affected.

14088.4. No reimbursement shall be provided for any recipient who is receiving case management services pursuant to this article, for any services, except emergency services and dental services, not authorized pursuant to case management decisions made by the appropriate primary care provider.

14088.5. The recipient shall be permitted to disenroll from any primary care provider for good cause shown in accordance with standards established by the department.

SEC. 21. Article 2.91 (commencing with Section 14089) is added to Chapter 7 of Part 3 of Division 9, to read:

Article 2.91. Expanded Choice of Health Care Plans

14089. (a) The purpose of this article is to provide an additional mechanism for providing recipients adequate health care in the counties in which they reside. It is, further, the purpose of this article to permit Medi-Cal recipients in selected counties the option of choosing from among two or more health care plans, including, but not limited to, health maintenance organizations, prepaid health plans, independent practice associations, various insurance coverage, organized county health systems, private foundations and university medical center systems, for the provision of health care services.

(b) The negotiator shall, with the assistance of the Board of Administration of the Public Employees' Retirement System, issue a request for proposal to provide medical and hospital insurance plans for eligible beneficiaries. The negotiator, at the request of any county, or counties acting jointly, shall also prepare, in cooperation with the Board of Administration of the Public Employees' Retirement System, a request for proposal detailing such information as is necessary for health care plans to submit bids for provision of health care services to eligible beneficiaries in the county or counties requesting to participate. The request for proposal shall contain specifications for provision of health care services to eligible populations on a capitated prepaid basis. Such information shall include, but not be limited to, such data as are necessary to make a sound actuarial projection of risks and premiums, and shall specify that the coverage include at least the minimum federally-required Medicaid benefits and may include any optional benefits which are currently available pursuant to Section 14132 of the Welfare and Institutions Code. The request for proposal shall identify existing Medi-Cal providers in the county or counties having requested to participate, the numbers of eligible individuals and the most current county Medi-Cal expenditure data.

(c) The negotiator shall approve proposals based on relative costs, extent of coverage offered, quality of health services to be provided, financial stability of the health care plan or carrier, recipient access to services, cost-containment strategies, peer and community participation in quality control, emphasis on preventive services and the ability of the health plan to meet all requirements for certification by the Commissioner of Corporations, the Insurance Commissioner and the Department of Health Services.

(d) The department shall enter into contracts pursuant to this article, and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

(e) Prior to the award of any contract, the department shall provide adequate public notice of a public hearing which shall be held in the county or counties to be served by the contract. In negotiating a contract or contracts, the negotiator shall take into consideration the testimony presented at the public hearing. The negotiator shall negotiate for at least two alternative health care

plans in each participating county.

(f) An eligible beneficiary shall be entitled to enroll in any health care plan contracted for pursuant to this article that is in effect for the county in which he or she resides. Enrollment shall be for a minimum of six months. Contracts entered into pursuant to this article shall be for at least one but no more than three years. The director shall make available to recipients information summarizing the benefits and limitations of each health care plan available pursuant to this section in the county in which the recipient resides.

(g) A participating county may include within the plan or plans providing coverage pursuant to this section, employees of county government, and others who depend upon county funds for all or part of their health care costs.

SEC. 22. Section 14103.4 of the Welfare and Institutions Code is amended to read:

14103.4. The director, with the advice of the Medicaid Advisory Committee required by federal law or regulation, shall determine which of the health care and related remedial or preventive services are elective. The director and the committee shall consult with representatives of providers of such services before making a determination.

SEC. 23. Section 14104.3 of the Welfare and Institutions Code is amended to read:

14104.3. (a) The department may, to the extent feasible, enter into nonexclusive contracts providing arrangements under which funds available for health care under this chapter shall be administered and disbursed to providers of health care or to their designated agents in consideration for services rendered and supplies furnished by them in accordance with the provisions of the applicable contract and any schedule of charges or formula for determining payments established pursuant to such contract. Such contract shall provide that the contractor:

(1) Will take such action as may be necessary to assure that payment for services to hospitals and other facilities and professional services shall be based on standards determined by the director. The formula for such payments shall be determined in accordance with regulations establishing the methods to be used and the items to be included.

(2) Will take such action as may be necessary to assure that charges by providers will be reasonable and not higher than the charge for a comparable service and under comparable circumstances made to other payors.

(3) Bills for service under this chapter shall be reviewed and rejected or processed for payment within an average of 18 days from receipt of evidence establishing validity of the bill for payment in the office of the contractor. If it is determined by the contractor that additional evidence of validity is required, such evidence shall be requested within 18 days from the date the bill is received by the contractor. In any event, notice shall be given within 30 days from

the date the bill is received concerning the status of the bill submitted if such bill is held for peer review by the contractor beyond 18 days. In no event shall the number of bills not processed for payment within 30 days of receipt exceed 9 percent of the total bills inventory.

(b) Contracts awarded under this section shall be awarded on a bid basis, and before entering into any such contract, the director shall publish notice soliciting bids.

(c) Contracts awarded under this section may provide:

(1) Payments to the contractor may be on a capitation or prepayment basis, or on a combination of both methods of payment.

(2) Providers may assume all or part of the risk of utilization of services, or costs of services, or both, and that providers who agree to assume such risk may be separately classified for purposes of applicable rates of payment or administrative requirements.

(3) Such other provisions as have previously been incorporated into pilot programs established pursuant to Chapter 8 (commencing with Section 14200) of this part and determined by the director to be desirable and feasible.

The director, at least once each year, shall report to the Joint Legislative Budget Committee actions taken by him in the awarding of contracts under this section, including, but not limited to, the number and types of bids submitted, the basis on which contracts were awarded, and, if a contract is awarded to other than the lowest bidder, the reason for such action.

SEC. 24. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. (a) The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200) of this part. In order to implement expeditiously the budgeting decisions of the Legislature, the director shall, to the extent permitted by federal law, adopt regulations setting rates which reflect such decisions 30 days after the enactment of the Budget Act and of any other appropriation which changes the level of funding for Medi-Cal services. The proposed regulations shall be submitted to the Department of Finance five days prior to the date of adoption. With the written approval of the Department of Finance, the director shall adopt such regulations as emergency regulations in accordance with the provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code). For purposes of such act, the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

(b) Insofar as practical, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall receive health care benefits.

(c) If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Section 14005.1. When and if necessary, such action shall be taken by the director in ways consistent with the requirements of the federal Social Security Act.

SEC. 24.5. Section 14105.1 is added to the Welfare and Institutions Code, to read:

14105.1. In determining interim rates of reimbursement for inpatient hospital services the department shall use reimbursement policy existing on the date prior to the effective date of this act. The director shall have authority to adjust reimbursement rates only to the extent funds are available. The provisions of this section shall cease to apply to a hospital when the department enters into a contract, pursuant to Article 2.6 (commencing with Section 14081), either with that hospital or with other hospitals which preclude that hospital from receiving reimbursement.

SEC. 25. Section 14105.3 of the Welfare and Institutions Code is amended to read:

14105.3. (a) The department is considered to be the purchaser, but not the dispenser or distributor, of prescribed drugs under the Medi-Cal program for the purpose of enabling the department to obtain from one or more manufacturers of prescribed drugs the most favorable price for such drugs furnished by one or more manufacturer, based upon the large quantity of such drugs purchased under the Medi-Cal program, and to enable the department, notwithstanding any other provision of California law, to obtain from such manufacturers discounts, rebates, or refunds based on such quantities purchased under said program, insofar as may be permissible under federal law. Nothing in this section shall interfere with usual and customary distribution practices in the drug industry.

(b) The department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of drugs, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service. This subdivision shall not apply to pharmacies licensed pursuant to Section 4080 of the Business and Professions Code.

(c) The department is hereby specifically authorized to contract with one or more manuafactures of each multisource prescribed

product or supplier of clinical laboratory services on a bid or nonbid basis. Nothing in this section shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories including just one manufacturer or clinical laboratory, on a bid or nonbid basis.

(d) Prior to entering into any contract under this section, the department shall submit a report to the Legislature demonstrating the cost-effectiveness of the contract.

SEC. 27. Section 14106 of the Welfare and Institutions Code is amended to read:

14106. If a Medi-Cal provider negotiates a rate of payment for inpatient, outpatient, or ancillary services with a prepaid health plan under contract with the department pursuant to Chapter 8 (commencing with Section 14200) of this part which is lower than or equal to the lesser of reasonable costs, customary charges, or the schedule of maximum allowances, the rate shall not affect the director's determination of reasonable costs, customary charges, or schedule of maximum allowances.

SEC. 29. Section 14110.2 is added to the Welfare and Institutions Code, to read:

14110.2. The director shall, unless precluded by federal law or regulation, amend the state plan under Title XIX of the Social Security Act to conform to the policy directions and budgetary decisions of the Legislature, as reflected in the Budget Act for each fiscal year.

SEC. 30. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. Bills for service under this chapter shall be submitted not more than two months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself to the provider as a Medi-Cal beneficiary, the provider shall be entitled to submit his statement at any time within 60 days after that date certified by the provider as the date said patient was first identified as a Medi-Cal beneficiary, provided, however, that such date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider is attempting to secure payment for services rendered under this chapter from a liable third party, the provider shall have 120 days after the month in which the service is rendered for submission of the bill, except that whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

Further, the director may, where he finds that delay in the

submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

SEC. 31. Section 14123 of the Welfare and Institutions Code is amended to read:

14123. Participation in the medical assistance program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) The director may suspend a provider of service from further participation under the medical assistance program for violation of the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part or any rule or regulation promulgated by the director pursuant to those chapters. Any such suspension may be for an indefinite or specified period of time and with or without conditions or may be imposed with the operation of the suspension stayed or probation granted. The director shall suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. The director in consultation with the special hospital negotiator shall also suspend a hospital from further participation under the medical assistance program as a provider of inpatient hospital services when hospital's participation under Article 2.6 (commencing with Section 14081) would not be in the best interest of the Medi-Cal program. Proceedings for suspension shall be by temporary suspension in accordance with subdivision (c). If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder with a 10 percent or greater interest in that organization, of such a crime shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. If the provider of services is a political subdivision of the state or other government agency, the conviction of the person in charge of the facility of such a crime shall result in the suspension of that facility. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The director shall order the suspension of a provider of service when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence irrespective of any subsequent order under the provisions of Section 1203.4 of the Penal

Code allowing a person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment. The suspension shall not take effect earlier than the date of the director's order. Suspension following a conviction is not subject to the proceedings required in subdivision (c). However, the director may grant an informal hearing at the request of the provider of service to determine in the director's sole discretion if the circumstances surrounding the conviction justify rescinding or otherwise modifying the suspension provided for in this subdivision.

(b) Whenever the director receives written notification from the Secretary of the Department of Health and Human Services, that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, the director shall, promptly suspend such practitioner from participation in the medical assistance program. This automatic suspension is not subject to the proceedings required in subdivision (c). No payment from state or federal funds may be made for any item or service rendered by such practitioner during the period of suspension.

(c) The proceedings for suspension shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that hearings may be conducted by departmental hearing officers appointed by the director. The director may periodically subcontract with the Office of Administrative Hearings to conduct such hearings. The director may temporarily suspend any provider of service prior to any hearing when in his opinion such action is necessary to protect the public welfare or the interests of the medical assistance program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve such provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with the sections of the Government Code specified in this subdivision. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within thirty (30) days after receipt of said notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits, provided, however, said temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) The suspension by the director of any provider of service shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association to the medical assistance program for any services or supplies he has provided under such program, except for services or supplies provided prior to the suspension. No clinic, group, corporation, or other association which is a provider of service shall submit claims for payment to the medical assistance

program for any services or supplies provided by a person within said organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

Where the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part or the regulations promulgated by the director are violated by a provider of service which is a clinic, group, corporation, or other association, the director may suspend such organization and any individual person within said organization who is responsible for such violation.

(e) Notice of the suspension shall be sent by the director to such provider's state licensing, certifying or registering authority along with the evidence upon which the suspension was based.

SEC. 32. Section 14123.1 is added to the Welfare and Institutions Code, to read:

14123.1. The provisions of subdivision (c) of Section 14123 shall not apply where the suspension of a provider is based upon the conviction of any crime involving fraud, abuse of the Medi-Cal program, or suspension from the federal Medicare program. In such instances, suspension shall be automatic.

SEC. 33. Section 14123.2 is added to the Welfare and Institutions Code, to read:

14123.2. Any provider or person that presents or causes to be presented a claim for services to an officer, employee, or agent of the State of California, or of any department or agency thereof as defined in appropriate state law that the director determines is for a medical or other item or service that the person knows or has reason to know; (1) was not provided as claimed, or (2) payment for which may not be made under the program, or (3) is submitted in violation of an agreement between the person and the state, shall be subject in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than three times the amount claimed for each such item or service.

Notwithstanding any other provisions of law, all money collected pursuant to to this section shall be deposited in the General Fund on a monthly basis.

SEC. 34. Section 14124.89 is added to the Welfare and Institutions Code, to read:

14124.89. (a) Every health care service plan, self-insured employee welfare benefit plan, disability insurer, and nonprofit hospital service plan shall, upon request of the department for any records, or any information contained in such records, pertaining to the coverage of any individual under any individual or group health insurance policy or plan issued by such corporation, or the medical benefits, including dental benefits paid by or claims made to such corporation under such a policy or plan, make the requested records or information available upon a certification by the department that the individual is an applicant for or recipient of services under this chapter or is a person who is legally responsible for such an applicant or recipient.

(b) The department shall enter into a cooperative agreement setting forth mutually agreeable procedures for requesting and furnishing appropriate information, not inconsistent with any law pertaining to the confidentiality and privacy of medical records, which procedure shall include financial arrangements as may be necessary to reimburse corporations providing health care coverage for necessary costs incurred in furnishing requested information, and the time and manner such procedures are to become effective. Reimbursement to corporations complying with the provisions of this section shall be at the same rate of reimbursement used to reimburse the Department of Motor Vehicles for providing information to insurance carriers. This section shall go into effect on January 1, 1983.

(c) The information required to be made available pursuant to this section shall be limited to information necessary to determine whether insurance benefits have been or should have been claimed and paid pursuant to a health insurance policy or plan with respect to items of medical care and services received by a particular individual for which Medi-Cal coverage would otherwise be available.

(d) Not later than the date upon which the procedures agreed to pursuant to subdivision (b) become effective, the director shall establish guidelines to assure that information relating to an individual certified to be an applicant for or recipient of medical assistance, furnished to any insurance company pursuant to this section, is used only for the purpose of identifying the records or information requested in such manner so as not to violate the confidentiality of an applicant or recipient.

(e) The department shall implement the provisions of this section by January 1, 1983.

SEC. 35. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy,

occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to

patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared-or-congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary.

SEC. 36. Section 14132.1 of the Welfare and Institutions Code is amended to read:

14132.1. As used in this chapter "surgical center" means a surgical clinic that is licensed under Section 1203 of the Health and Safety Code. Pursuant to Section 14105, the director shall establish the rates of payment for services provided by surgical centers.

SEC. 37. Section 14133.25 is added to the Welfare and Institutions Code, to read:

14133.25. (a) The director shall identify those surgical and medical procedures capable of outpatient performance and establish conditions for assuring performance in an outpatient rather than inpatient setting when medically appropriate.

(b) The director shall identify and apply appropriate utilization controls to review outpatient and office medical and surgical procedures for medical necessity and program coverage. The director may under this section identify and require prior authorization for any specified outpatient or office medical or surgical procedure performed during a month without regard to the provisions of Section 14133.1, provided that, with respect to outpatient or office medical procedures, those medical procedures which remain not subject to prior authorization are sufficient in number and scope as to achieve the general purpose of Section 14133.1.

SEC. 38. Section 14133.3 is added to the Welfare and Institutions Code, to read:

14133.3. (a) The director shall require fully documented medical justification from providers that the requested services are medically necessary to protect life or prevent significant disability, on all requests for prior authorization.

(b) For services not subject to prior authorization, the director shall additionally determine utilization controls which shall be applied to assure that the health care services provided and the conditions treated, are medically necessary to protect life or prevent significant disability. Such utilization controls shall take into account those diseases, illnesses, or injuries which require preventive health services or treatment to prevent serious deterioration of health.

(c) Nothing in this section shall preclude payment for family planning services, early or periodic screening, diagnosis and treatment services mandated by federal law.

SEC. 39. Section 14134 of the Welfare and Institutions Code is amended to read:

14134. A recipient of services under this chapter shall be required to make copayments as follows:

(a) Except for any person age 12 or under or any woman receiving perinatal care, a copayment of five dollars ($5) shall be made for

nonemergency services received in an emergency room. For the purposes of this section, "nonemergency services" means any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of severe medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(b) A copayment of one dollar ($1) shall be made for each drug prescription. Collection of this copayment shall be required as a condition for reimbursement. This subdivision shall not apply to an individual residing in a skilled nursing or intermediate care facility.

(c) Except for any person age 12 or under, any woman receiving perinatal care, or any person who is an inpatient in a facility as defined in Section 1250 of the Health and Safety Code, a copayment of one dollar ($1) shall be made for each visit for services under subdivisions (a) and (h) of Section 14132.

The above copayment amounts set forth in subdivisions (a) and (c) may be collected and retained or waived by the provider. The department shall not reduce the reimbursement otherwise due to providers as a result of such copayment. Such copayment amounts shall be in addition to any reimbursement otherwise due the provider for services rendered under this program.

The provisions of this section shall not apply to any services received by persons covered under the federal program of health insurance for the aged and disabled, for which claims for payment will be billed to the federal program or to any child in AFDC-Foster Care, as defined in Section 11400.

SEC. 40. Section 14171.5 is added to the Welfare and Institutions Code, to read:

14171.5. Any institutional provider of health care services which obtained reimbursement under this chapter to which it is not entitled shall be subject to the following interest charges or penalties:

(a) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (e) of Section 14171.

(b) When it is established upon audit that the provider claimed payments related to services or costs which the department had previously notified the provider in an Audit Report that such costs or services were not reimbursable, the provider shall pay in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after this notice, plus the cost of the audit. In addition, interest will be assessed at the rate specified in subdivision (e) of Section 14171. Providers who wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim such cost or services and not be reimbursed therefor, provided that they are identified and presented separately on the cost report.

(c) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay a

penalty of 25 percent of the amount improperly claimed, plus the cost of the audit, in addition to the amount thereof. In addition, interest will be assessed at the rate specified by subdivision (e) of Section 14171. A fraudulent claim is a claim upon which the provider has been convicted of fraud upon the program. Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(d) Appeals to action taken in subdivisions (a), (b), and (c) of Section 14171.5 above are subject to the administrative appeals process provided by Section 14171.

(e) Penalties paid by providers under subdivisions (a), (b), and (c) of Section 14171.5 are not reimbursable by the program.

SEC. 41. Section 14172 of the Welfare and Institutions Code is amended to read:

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider for health care services identified through an audit or examination conducted by or on behalf of the director, and the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the issuance of such final decision, the director may, not later than three years after the payment became due and owing, file in the office of the County Clerk of Sacramento County, and with the county clerk of the county in which the provider has his principal place of business, a certificate containing the following:

(1) The amount due and owing and unpaid plus interest at the rate equal to the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding made pursuant to Sections 10722 and 14170 is mailed.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of such certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. Such judgment may be filed by the county clerk in a looseleaf book entitled "Health Care Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (d) of Section 14171 and notice of such action is properly served on the director within 90 days of the issuance of the final decision of the director, the director shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (d) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the director may file the certificate provided in subdivision (a); provided, however, if the provider seeks judicial

review of the final decision of the director more than 90 days from the date of such decision in accordance with subdivision (d) of Section 14171, the director shall within 10 days after receiving notice of such action release any lien imposed pursuant to this article and any judgment entered is for all purposes null and void.

SEC. 42. Section 14172.5 of the Welfare and Institutions Code is amended to read:

14172.5. (a) Notwithstanding the provisions of Section 14172 or any other law, when it is established that an overpayment has been made to a provider, the department shall not begin liquidation of such overpayment until 60 days after issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report establishing such overpayment should it be found upon appeal that no overpayment was made to the provder, the department shall repay the amount collected, together with the payment of interest thereon, from the date occurring 60 days after issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report alleging the overpayment.

(b) If on the basis of reliable evidence, the department has a valid basis for believing that, with respect to a provider, proceedings have been or will shortly be instituted in a state or federal court for purposes of determining whether the provider is insolvent or bankrupt under appropriate state or federal law, or that a provider is or will shortly be taking action which reasonably might seriously hinder or defeat the department's ability to collect overpayments in the future, the department may immediately adjust any payments to the provider to a level necessary to insure that no overpayment to the provider is made.

SEC. 43. Section 14173 of the Welfare and Institutions Code is amended to read:

14173. An abstract of a judgment obtained pursuant to subdivision (a) of Section 14172 or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real or personal property of the provider in that county owned by the provider at the time, or which the provider may afterwards but before the lien expires, acquire. The lien shall have the force, effect and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivision (a) of Section 14172 unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new abstract in the office of the county recorder of any county. From the date of such recording the lien shall be extended for 10 years unless sooner released or otherwise discharged.

Execution shall issue upon such a judgment upon request of the

director in the same manner as execution may issue upon other judgments. Sale shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section, the director or his authorized agents may act on behalf of the state.

SEC. 44. Section 14178 is added to the Welfare and Institutions Code, to read:

14178. (a) Counties shall be held harmless in accordance with the provisions of this section for state funds to be recouped pursuant to audit exceptions issued for acts performed prior to July 1, 1982.

(b) Audit exception for the purpose of this section shall be defined as follows: Demands for recovery resulting from those audit reports issued by the Department of Health Services in which no final settlement or administrative decision adopted by the director has been arrived at prior to the effective date of this section.

(c) Such forgiveness of audit exceptions shall apply only to the state's share of payments made in support of the Medi-Cal program. Counties shall retain liability for payment of the federal portion of payments made for Medi-Cal services unless and until the federal government agrees to waive their rights for repayment of federal share.

(d) Audit exceptions regarding county claims related to nonprogram benefits shall remain unaffected by the provisions of the section. County claims for nonprogram benefits shall include claims for return on equity, claims for bad debts, claims for uncompensated care, and any other claims not compensable pursuant to Title XIX of the federal Social Security Act.

(e) The amount of the recoupment of the federal portion of valid audit exceptions pursuant to subdivision (c) shall be determined pursuant to the existing administrative appeals process.

(f) No provision of this section shall apply to any audit report issued by the Department of Health Services after the effective date of this section.

SEC. 45. Section 14316 is added to the Welfare and Institutions Code, to read:

14316. Notwithstanding any other provisions of law, contracts with plans which are entered into, renewed, or amended pursuant to this article may include one or more of the following:

(1) A provision to the effect that if the rate for a plan is less than 90 percent of the estimated Medi-Cal fee-for-service cost, the plan's rate shall be increased by one-half the difference between the rate fixed and 90 percent of the estimated fee-for-service cost. The rate shall not, however, be less than 85 percent of the estimated fee-for-service costs.

(2) Guaranteed capitation payments for Medi-Cal beneficiaries, who are entitled to benefits under Title IV of the Social Security Act, for a period of six months or less, even if the eligibility for benefits of such beneficiaries terminates prior to the end of the guaranteed payment period. Each guaranteed payment period shall be calculated beginning on the date a beneficiary's enrollment takes

effect.

(3) Benefits in addition to those listed under Section 14132, as long as the provision of such additional services permits plans to remain more cost effective than fee-for-service reimbursement.

SEC. 46. Section 14491.5 is added to the Welfare and Institutions Code, to read:

14491.5. The negotiator shall establish pilot projects in at least two clearly defined geographic areas to test the cost effectiveness of delivering health care benefits, as listed in Section 14132, through private insurance companies or health maintenance organizations. At least one pilot shall be conducted in a rural area, and one in an urban area. The cost of each pilot established under this section shall not exceed the total amount which the department estimates it would pay for all services and requirements within the same geographic area under the fee-for-service Medi-Cal program.

On July 1, 1983, the California Medical Assistance Commission shall evaluate the cost-effectiveness of these pilot projects. Pursuant to this evaluation the commission may either terminate the existing projects, retain the existing pilot projects or create additional pilot projects.

SEC. 47. Section 14653 of the Welfare and Institutions Code is amended to read:

14653. This article shall remain in effect only until July 1, 1982, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 47.5. Section 14665 of the Welfare and Institutions Code is amended to read:

14665. The State Department of Mental Health shall evaluate programs approved under these provisions and shall submit a report to the Legislature by May 1, 1983, relative to project performance. Consolidation of Medi-Cal mental health and Short-Doyle programs shall be effected statewide by July 1, 1983, if approval is given in the Budget Act.

SEC. 48. (a) The Legislature hereby awards Los Angeles County a grant in the amount of two hundred million dollars ($200,000,000) for the purpose of funding the transition from the present to a new county system of providing medical assistance to medically indigent adults.

(b) A contract shall be executed between the State and Los Angeles County whereby the State agrees to make the payments hereinafter set forth, and Los Angeles County agrees to provide for the treatment of medically indigent adults.

SEC. 49. (a) There is hereby established within the General Fund a reserve account to be known as the Los Angeles County Medical Assistance Grant Account.

(b) The sum of two hundred million dollars ($200,000,000) shall be deposited in this account as follows:

(1) One hundred million dollars ($100,000,000) during the 1983–84 fiscal year, and

(2) One hundred million dollars ($100,000,000) during the 1984–85 fiscal year.

(c) There is hereby appropriated for the 1984–85 fiscal year the sum of two hundred million dollars ($200,000,000) from the Los Angeles County Medical Assistance Grant Account of the General Fund to the Department of Health Services. This appropriation shall be expended in June 1985 to meet the obligation described in subdivision (a) of Section 48 of this act.

(d) Such grant shall be in lieu of the first two hundred million dollars ($200,000,000) the State would otherwise pay to Los Angeles County for; (1) the treatment of medically indigent adults pursuant to Section 14005.16 of the Welfare and Institutions Code, and (2) the State subsidy to county health services pursuant to Section 16702 of the Welfare and Institutions Code for services rendered during the 1982–83 fiscal year.

SEC. 50. (a) It is the specific intent of the Legislature to authorize Los Angeles County to meet its cash requirements occasioned by the transition to the new system of treating medically indigent adults by borrowing against the security of the grant pursuant to Sections 53859 et seq. of the Government Code. For the purposes of this section, and Sections 53859 et seq. of the Government Code, the full amount of the grant hereby awarded and appropriated shall be conclusively presumed to be presently appropriated and committed, to be income and revenue to Los Angeles County for the 1982–83 fiscal year, and to be accrued by the county for the 1982–83 fiscal year.

(b) The grant funds received from the State pursuant to this section and the proceeds of grant anticipation notes sold pursuant to this section shall be placed in a separate fund. Moneys in this fund may be expended only to reimburse other county funds which would have otherwise been reimbursed by the State pursuant to the above-referenced sections of the Welfare and Institutions Code and to retire the principal and interest on the notes. No other county moneys may be expended for the purposes of the expenditures specified in the preceding sentence until such expenditures exceed one hundred ninety million dollars ($190,000,000).

(c) The county may, after June 30, 1982, deposit in this fund any revenues attributable to the fiscal year 1982–83 but received thereafter to the extent that proceeds from the grant are not expected to be sufficient to repay the principal or interest on such grant anticipation notes. Total deposits to this fund may not exceed the amount required to repay the principal and interest of such grant anticipation notes.

SEC. 51. (a) During the 1983–84 fiscal year funds to be allocated to Los Angeles County pursuant to Sections 14005.16 and 16702 of the Welfare and Institutions Code shall be paid during July 1983 by the Department of Health Services. During the 1984–85 fiscal year, funds to be allocated to Los Angeles County pursuant to Sections 14005.16 and 16702 of the Welfare and Institutions Code shall be paid during

July 1984 by the Department of Health Services. The county auditor shall deposit such payments in a special trust fund from which he shall make disbursements to other county funds at the time such payments would, except for provisions of this section, be received from the State.

SEC. 52. In order to effectuate savings in the Medi-Cal program, the State Department of Health Services shall, during the 1982–83 fiscal year, provide for more restrictive utilization controls, including prior authorization requirements for podiatric services and therapist services.

SEC. 53. For the 1982–83 fiscal year, in order to effectuate savings under the Medi-Cal program, the State Department of Health Services shall:

(1) Reduce by 10 percent, rates of reimbursement for services provided by physicians and outpatient departments of hospitals. This provision shall not be construed to apply to outpatient services provided by clinics licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

This provision shall not be construed to apply to outpatient services provided by laboratory and pathology services or to exempt from licensure under Section 1206.

(2) It is the intent of the Legislature to reduce pharmacy program expenditures, exclusive of the drug dispensing fee reduction provided for in paragraph (8), by twenty million dollars ($20,000,000) General Fund money. To achieve this savings goal, the department shall eliminate drugs, medical supplies, nonprescription and prescription drugs from the Medi-Cal Drug Formulary, or from the Medi-Cal program, and implement other utilization controls for retained items. In implementing this provision, the director shall determine which drugs shall be eliminated based on standards of cost, critical therapeutic importance, safety, efficacy and need. It is the intent of the Legislature that, in making these reductions, the department shall give priority consideration to the elimination of common medicine chest medical supply items, over-the-counter drug products, prescription drug products which afford minor symptomatic relief, and codeine and other narcotic analgesics. In implementing this provision, the Director of Health Services shall not be required to comply with the provisions of Sections 14053.5 and 14184 of the Welfare and Institutions Code, insofar as the latter section requires the director to receive a report from the Medical Therapeutics and Drug Advisory Committee prior to making determinations as to the additions and deletions from the formulary.

(3) Eliminate nonemergency transportation services, except for ambulance transportation services as required by Section 14136.1 of the Welfare and Institutions Code, for patients who require continuing medical care such as dialysis, chemotherapy and radiation therapy, and who would be placed in a life-threatening situation if medical care were not provided, and patients being transported between a hospital and a skilled nursing facility or intermediate care

facility, patients being transported from a skilled nursing facility or intermediate care facility to points of needed outpatient services, patients being discharged from a licensed facility to their residence, and between skilled nursing facilities if the Department of Health Services has closed the facility due to violation of state licensing standards.

(4) Eliminate coverage of hearing aid replacement batteries and reduce rates of reimbursement for fitting and dispensing of hearing aids by 10 percent.

(5) Reduce rates of reimbursement for acupuncture treatment by 10 percent.

(6) Reduce rates of reimbursement for portable X-ray services by 10 percent and provide more restrictive utilization controls for portable X-ray services in accordance with Section 14133.3 of the Welfare and Institutions Code.

(7) Reduce rates of reimbursment for chiropractic by 10 percent.

(8) Reduce rates of reimbursement for drug dispensing services by 9.6 percent.

(9) Reduce rates of reimbursement for laboratory and pathology services, including specimen collection and handling, which are performed by all but hospital inpatient providers, by an overall average of 25 percent. Rates for individual procedures may be adjusted by more or less than the overall 25 percent reduction to reflect changes in technology based on appropriate relative value studies.

(10) Limit coverage of adult vision care services provided by any provider to services necessary to determine whether a condition may be present which could lead to significant disability or threaten the life of the beneficiary or others. If such circumstances are present, medically necessary diagnostic and supplementary services may also be covered. Prescribing, directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics are not covered.

(11) Limit coverage of eyeglasses to situations when the beneficiary does not have eyeglasses available which permit vision of at least 20/40 in at least one eye and the refractive correction supplied is at least 1.00 diopter in all meridians of both lenses. Astigmatic corrections of at least 1.00 diopter shall be covered. Presbyopic corrections of at least 1.00 diopter shall be covered for reading glasses.

(12) Reduce expenditures for dental services by 10 percent either through reimbursement rate reductions, service reductions, or a combination of both. Reimbursement rate or service reductions provided for under this paragraph shall be made only after consultation with the California Dental Service.

(13) Reduce by 10 percent, rates of reimbursement for psychological services provided on a fee-for-service basis.

SEC. 54. The department shall submit to the Legislature prior to January 1, 1983, a report on the feasibility of obtaining information

from insurance carriers, health plans, and other corporations regarding health care coverage of beneficiaries under the Medi-Cal program.

SEC. 55. It is the intent of the Legislature that, due to the oversupply of specialists, the sum of two million dollars ($2,000,000) which would have been used to fund one-half of the residency positions for physicians not engaged in providing primary care for University of California hospitals during the 1982–83 fiscal year, be removed from the University of California's budget allocation.

SEC. 56. Sections 5 and 6 of this act shall become operative on January 1, 1983.

SEC. 57. The following provisions apply to the provisions of this act, which make changes in the Medi-Cal program.

(a) Any provision which is in conflict with any federal statute or regulation shall be inapplicable to the extent of such conflict, but the provision and the remainder of the provisions shall be unaffected to the extent no conflict exists.

(b) The State Department of Health Services shall seek all federal waivers necessary to implement the provisions. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(c) The State Director of Health Services shall adopt regulations implementing the provisions as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the Department of Health Services in order to implement the provisions shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 58. To the extent necessary to carry out the provisions of this act, the State Department of Health Services shall be exempt from Executive Order B97-82, prohibiting State agencies or departments from hiring any new employees, promoting any existing employees, or transferring any existing employees between departments.

SEC. 59. The Medi-Cal fiscal intermediary shall expedite the implementation of any change order required to carry out this act. The department shall provide sufficient funding for any such change order to enable the fiscal intermediary to implement such change order expeditiously and to not have to divert staff or other resources from existing contract tasks, including but not limited to those

resources dedicated to the implementation of all other change orders.

SEC. 60. There is hereby appropriated from the General Fund without regard to fiscal years the sum not to exceed seven hundred fifty thousand dollars ($750,000) for the support of the special hospital negotiator and for support services contracted for to carry out the provisions of this act.

SEC. 61. The provisions of this act relating to contracting with health care providers or health systems for the provision of services under the Medi-Cal program shall not apply to pilot projects established under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 62. The provisions of this act shall not become effective unless and until AB 3480 and the Budget Act are enacted during the 1982 portion of the 1981–82 Regular Session.

SEC. 63. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 64. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maintain the fiscal integrity and the quality of services under the Medi-Cal program, it is necessary that this act go into immediate effect.

CHAPTER 329

An act to amend Sections 441.1 and 441.18 of, to add Section 442.13 to, to repeal and add Sections 441.3 and 441.5 of, to repeal Part 1.7 (commencing with Section 440) of Division 1 of, the Health and Safety Code, to amend Sections 10133, 10401, and 11512 of the Insurance Code, and to add Article 5.1 (commencing with Section 14165) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to health.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 441.1 of the Health and Safety Code is amended to read:

441.1. As used in this part:

(a) "Commission" means the California Health Facilities

Commission of the State of California.

(b) "Council" or "the advisory council" means the Advisory Council to the California Health Facilities Commission established by Section 442.7.

(c) "Health facility" or "health facilities" means all health facilities of the type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(d) "Hospital" means all health facilities, except skilled nursing and intermediate care facilities.

SEC. 2. Section 441.3 of the Health and Safety Code is repealed.

SEC. 3. Section 441.3 is added to the Health and Safety Code, to read:

441.3. There is hereby created the California Health Facilities Commission which shall be an independent state commission. The commission shall be composed of nine members to be selected in the following manner:

(a) Five members shall be appointed by the Governor, one of whom shall be experienced in the field of health insurance or in the administration of a health care service plan, one of whom shall be experienced in the management of a comprehensive group practice prepayment health care service plan, registered under Chapter 2.2 (commencing with Section 1340) of Division 2, and three of whom shall be public members.

(b) Two members shall be appointed by the Speaker of the Assembly, one of whom shall be an executive officer of a health facility or a group health facility subject to the provisions of this part and one of whom shall be a public member.

(c) Two members appointed by the Senate Rules Committee, one of whom shall be a physician and surgeon licensed under the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code with at least five years experience in the practice of medicine in the state and one of whom shall be a public member.

SEC. 4. Section 441.5 of the Health and Safety Code is repealed.

SEC. 5. Section 441.5 is added to the Health and Safety Code, to read:

441.5. Of the initial appointments made to the commission pursuant to Section 441.3, three of the appointments made by the Governor, one of the appointments made by the Speaker of the Assembly, and one of the appointments made by the Senate Rules Committee shall be for a term of two years. The other initial appointments made to the commission shall be for a term of four years.

All future appointments shall be for a term of four years.

Vacancies shall be filled by appointment for the unexpired term. Every appointment made by the Governor pursuant to this section shall be subject to the advice and consent of a majority of the members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim

appointment which shall expire on the last day of the next Regular Session of the Legislature or upon the appointment of a successor in accord with the provisions of this section, whichever first occurs. The Governor may remove any member of the commission disqualified by reason of Section 441.4, or for neglect of any duty required by law, or for incompetency, or dishonorable conduct.

If any member fails to attend three consecutive scheduled meetings of the commission without good cause, his or her membership shall be terminated and the vacancy filled in the same manner as the original appointment.

No member shall be appointed to a position on the commission for more than three consecutive full terms.

SEC. 6. Section 441.18 of the Health and Safety Code is amended to read:

441.18. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the commission, within four months after the close of the organization's calendar or fiscal year for all annual accounting periods to which the systems of accounting and uniform reporting approved under Section 441.17 are made applicable thereby, all of the following reports on forms specified by the commission which shall be in accord with such systems of accounting and uniform reporting all of the following:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual period ending on the balance sheet date.

(c) A statement detailing the source and application of funds expended by the health facility for the period encompassed by the income statement required by subdivision (b).

(d) A statement reporting the information required in subdivisions (a), (b), and (c) of this section for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(e) A report of health facility expenditures which allocates the costs of nonrevenue-producing departments of a health facility to the other nonrevenue- and revenue-producing centers which they serve, similar to the "step-down" or "double-apportionment" methods of cost finding used in reporting health facility cost experience under Title XVIII of the Federal Social Security Act. Any health facility which participates in Title XVIII as a provider of health care services may elect to file the cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII in place of the report required by the commission under this subdivision.

(f) The report required by subdivision (e) shall be accompanied by an accurate and sufficiently detailed statistical report containing data taken from the health facility's basic accounts and patient statistics as maintained under one of the systems approved in

accordance with Section 441.17, which identifies costs related to categories, types or units of health care services delivered to patients by the operating departments of the health facility in accordance with a list of such services provided by the commission acting under the provisions of Section 441.15. Any health facility which participates in Title XVIII of the Federal Social Security Act may elect to file the statistical reports covering the provision of such health care services required under Title XVIII in place of the report required by the commission under this subdivision.

Health facilities described in subdivision (b) of Section 441.16 shall file such statements and reports, not inconsistent with subdivision (b) of Section 441.16, as the commission may reasonably require for the annual financial reporting period of such health facilities or group of health facilities.

On or before January 1, 1981, the commission, with the advice and consultation of the State Department of Health Services, shall adopt a single, uniform fiscal reporting document for long-term care facilities for use by the commission and the department.

(g) If federal regulations implementing subsection (a) of Section 19 of Public Law 95-142 relating to hospital reporting requirements for the Uniform Hospital Discharge Data Set (UHDDS) have not been adopted on or before July 1, 1981, every health facility for the first accounting year commencing on or after July 1, 1981, shall file a Hospital Discharge Abstract Data Record limited to all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Other diagnosis.
(11) Principal procedure and dates.
(12) Other procedures and dates.
(13) Total charges.
(14) Disposition of patient.
(15) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A health facility or its designee shall annually file the Hospital Discharge Abstract Record not later than six months after the close of the facility's calendar or fiscal year. A health facility may submit the Hospital Discharge Abstract Record in a computer tape format, and a health facility may use coding from the International Coding of Diseases in reporting diagnoses and procedures.

When the discharge data reporting requirements of Public Law

95-142 are implemented, the requirements of the Hospital Discharge Abstract Data Record adopted by the commission pursuant to this subdivision shall cease to be effective and the requirements of the federal regulations shall thereafter govern the data to be reported pursuant to this subdivision.

The commission shall adopt forms of authentication for use by health facility officers or licensed accountants preparing reports under this section stating that each such officer or accountant making the authentication believes that to the extent of his knowledge and information each statement in the report is true.

With the exception of hospital discharge abstract data, all reports required to be filed by the health facility with the commission shall be available for inspection by the public during regular working hours at the principal location of the health facility.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 7. Section 442.13 is added to the Health and Safety Code, to read:

442.13. This part shall remain in effect only until January 1, 1986, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 8. Section 10133 of the Insurance Code is amended to read:

10133. Upon written consent of the insured first obtained with respect to a particular claim any disability insurer shall pay group insurance benefits contingent upon, or for expenses incurred on account of, hospitalization or medical or surgical aid to the person or persons furnishing such hospitalization or medical or surgical aid, but the amount of any such payment shall not exceed the amount of benefit provided by the policy with respect to the service or billing of the provider of aid, and the amount of such payments pursuant to one or more assignments shall not exceed the amount of expenses incurred on account of such hospitalization or medical or surgical aid. Payments so made shall discharge the insurer's obligation with respect to the amount so paid.

Nothing in this section shall be construed to authorize an insurer to furnish services of hospitals, or physicians and surgeons or in any manner to direct, participate in or control the selection of the hospital or physician and surgeon from whom the insured secures services, except that an insurer may negotiate and enter into contracts for alternative rates of payment with institutional providers, and offer the benefit of such alternative rates to insureds who select such providers. Alternatively, insurers may, by agreement with group policyholders, limit payments under a policy to services secured by insureds from institutional providers charging alternative rates pursuant to contract with such insurer.

On and after July 1, 1983, the amendments made to this section during the 1982 portion of the 1981–82 Regular Session, shall also be applicable with respect to both professional and institutional

providers.

SEC. 8.5. Section 10401 of the Insurance Code is amended to read:

10401. Any incorporated insurer admitted for disability insurance and any agent of such insurer, that makes or permits any discrimination between insureds of the same class in any manner whatsoever with relation to such insurance, is guilty of a misdemeanor.

The payment to insureds by an insurer of alternative rates of payment negotiated and contracted for with institutional providers shall not constitute a violation of this section.

On and after July 1, 1983, the amendments made to this section during the 1982 portion of the 1981–82 Regular Session, shall also be applicable with respect to both professional and institutional providers.

SEC. 8.7. Section 11512 of the Insurance Code is amended to read:

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefor is expressed in the contract;

(b) Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services except family hospital service contracts issued under Section 11512.1, group hospital service contracts issued under Section 11512.2 and blanket contracts issued under Section 11512.4;

(d) Unless every printed portion and any endorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, such portion is printed in boldface type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Except for a comprehensive health care contract issued under

subdivision (e) of Section 11493, unless the contract for hospital service contains in blackface type not less than 10-point the following provisions:

Nothing in this contract contained shall in any way or manner restrict or interfere with the right of any individual entitled to hospital service and care hereunder to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon's certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered;

A contract need not contain the foregoing provisions of this subdivision when a plan has negotiated and entered into contracts for alternative rates of payment with institutional providers, and offers the benefits of such alternative rates to group contractors who select such providers. A contract need not contain the foregoing provisions when a plan, by agreement with group contractors, limits payments under a contract to services secured by subscribers from institutional providers charging alternative rates pursuant to contract with such plan. On and after July 1, 1983, the provisions of this subdivision shall also be applicable with respect to both professional and institutional providers.

(i) If such contract contains coverage for sterilization operations or procedures and it imposes any disclaimer, restriction on, or limitation of coverage relative to the insured's reason for sterilization. All such contracts entered into or renewed on or after March 7, 1973, shall be construed to be in compliance with this section, and any provision in any such contract which is in conflict with this section shall be of no force or effect;

(j) Unless, in the case of a contract which provides benefits that accrue after a certain time of confinement in a health care facility, the contract specifies what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 11. Article 5.1 (commencing with Section 14165) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 5.1. California Medical Assistance Commission

14165. There is hereby created in state government the California Medical Assistance Commission, for the purpose of contracting with health care delivery systems for provision of health care services to recipients under the California Medical Assistance program.

14165.1. The commission shall be composed of seven voting members and two ex officio members. The voting members shall be selected from persons with experience in management of hospital services, risk management insurance or prepaid health programs,

the delivery of health services, the management of county health systems, and a representative of recipients of service. The Directors of the Department of Health Services and the Department of Finance, or their designees, shall serve as ex officio nonvoting members of the commission.

14165.2. The Governor shall appoint three members of the commission, one of which shall be designated chairperson. The Speaker of the Assembly and the Senate Rules Committee shall each appoint two members of the commission. Of the members first appointed by the Governor, one shall serve for a term of three years, and two for a term of two years. Of the members appointed by the Speaker of the Assembly and the Senate Rules Committee, one appointed by the Speaker of the Assembly and one appointed by the Senate Rules Committee shall serve for a period of three years with the other appointees to serve for a period of two years. Thereafter, all appointments shall be for four-year terms.

14165.3. The commission shall hire an executive director, legal counsel and such other staff as necessary consistent with funds appropriated in the Budget Act. All professional staff employees of the commission shall be exempt from civil service.

14165.4. It is the intent of the Legislature that beginning July 1, 1983, the functions, powers and duties contained in Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) become subject to the provisions contained herein. Between January 1, 1983, and July 1, 1983, the commission shall monitor and review the activities undertaken pursuant to Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089).

14165.5. The executive director shall act under the authority of the commission and shall negotiate the terms, services, and costs consistent with funds available. The commission shall serve as a review body for all contracts negotiated by the executive director. The commission may reject any proposed contract within 20 days after approval by the executive director.

14165.6. The commission shall direct the planning, development and negotiation of contract services which provide for:

(a) The provision of services through a capitation methodology, including, but not limited to, health maintenance organizations, organized county health systems, insurance companies, and independent practice associations.

(b) Hospital inpatient or hospital outpatient services.

(c) Pilot projects meeting the provisions of Section 14491.5.

(d) Health care projects meeting the provisions of Article 2.91 (commencing with Section 14089).

14165.7. All decisions of the commission shall be by a majority of four votes, including the hiring of the executive director. The commission shall retain an independent office of legal counsel for purposes of contract review. All contracts shall be reviewed by legal

counsel.

14165.8. The commission shall be reimbursed at the annual salary of members of the Legislature. The commission shall set the salary of the executive director and other staff consistent with funds appropriated.

14165.9. The commission shall report to the Legislature on January 1 and May 1 of each year. The January report shall include:

(a) Number and type of health service contracts.

(b) Persons served, cost per service and other relevant and statistical information.

(c) Projected contract services and estimated costs. The May report shall serve as an update of information contained in the January report.

SEC. 12. The provisions of this act shall only become effective if Assembly Bill 799 is enacted during the 1982 portion of the 1981–82 Regular Session.

CHAPTER 330

An act to amend Sections 20009.1, 20011, 20012, 20013, 20131, 20203, 20230, 20740, 20750.8, 20755, 20758, 20801, 20805, 21263.4, 21263.5, and 21290 of, to add Sections 20011.1, 20020.8, 20026.3, 20131.1, 20132.5, 20234, 20590, 20742, 20743, 20755.1, 20760, 21232, 21235, 21263.6, and 21263.65 to, to add and repeal Section 20132 of, to repeal Sections 20011.1, 20019.1, 20019.2, 20750.144, 20750.85, and 20750.86 of, the Government Code, and to amend Sections 60 and 61 of Chapter 115 of the Statutes of 1982, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

I am reducing the appropriation contained in Section 40 of Senate Bill No. 46 from $214,000,000 to $214,000. This reduction corrects an inadvertent drafting error. With this reduction I approve Senate Bill No. 46.

EDMUND G. BROWN JR., GOVERNOR

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

SECTION 1. It is the intent of the Legislature in enacting this act to preserve the actuarial integrity of the Public Employees' Retirement System, to recognize the fiduciary role of the Board of Administration of the Public Employees' Retirement System, to assist in the orderly and equitable disposition of the reserve against deficiencies created by Section 20203 of the Government Code, and to provide for repayment of state and school employer retirement

contributions. In enacting this act, the Legislature agrees with the findings of the chief actuary and the board, who, on June 16, 1982, determined that funds in the reserve for deficiencies may be allocated from the reserve without jeopardizing the actuarial soundness of the system. The Legislature also concurs with the board's finding that direct relief from contributions in this time of fiscal stress is for the exclusive benefit of the members and retired members of the system.

It is also the intent of the Legislature in enacting this act to acknowledge that certain employer accounts in the Public Employees' Retirement Fund may have been adversely affected by the temporary cessation of employer contributions mandated by Chapter 115, Statutes of 1982. In enacting this act, the Legislature provides for the augmented crediting of interest earnings to those accounts in an effort to assure that the accounts are in actuarially sound condition in relation to their current liabilities and existing statutory requirements regarding the full funding of present unfunded obligations.

If, however, the Board of Administration of the Public Employees' Retirement System determines, pursuant to the next four-year actuarial valuation of that system, that the augmented interest crediting measures provided in this act have been insufficient to maintain the affected employer accounts in the fund in actuarially sound condition, it is the intent of the Legislature to increase employer contributions to a level the board determines necessary to accomplish existing statutory full funding goals.

SEC. 1.5. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(b) Any foundation or trust established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University and Colleges or community college.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University and Colleges or community college or of members of the faculty of the California State University and Colleges or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University and Colleges or community college.

(d) The Adjutant General with respect to persons employed by him pursuant to federal regulations and compensated directly from federal funds.

(e) A state organization of governing boards of school districts,

the primary purpose of which is the advancing of public education through research and investigation.

(f) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(g) A section of the California Interscholastic Federation.

(h) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of the Public Employees' Retirement System or the State Teachers' Retirement System, and their immediate families, and employees of any such credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of the Public Employees' Retirement System or the State Teachers' Retirement System. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All such payments made by the credit union which are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of the system.

(i) Any county superintendent of schools which was a contracting agency on July 1, 1983, and any school district or community college district which was a contracting agency with respect to local policemen, as defined in Section 20020.8, on July 1, 1983.

SEC. 2. Section 20011 of the Government Code is amended to read:

20011. "Employer" means the state, the university, a school employer, and any contracting agency employing an employee.

SEC. 3. Section 20011.1 of the Government Code is repealed.

SEC. 4. Section 20011.1 is added to the Government Code, to read:

20011.1. "School employer" means a county superintendent of schools, other than the Los Angeles County Superintendent of Schools and the San Diego County Superintendent of Schools, which has entered into a contract with the board pursuant to Chapter 4.5 (commencing with Section 20580) of this part and any school district or community college district which was a contracting agency on July 1, 1983, excluding that portion of a contract with the Los Angeles City Unified School District and the Los Angeles Community College District that pertains to local policemen, as defined in Section 20020.8, on July 1, 1983.

SEC. 5. Section 20012 of the Government Code is amended to read:

20012. "Employee" means:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his compensation which is provided by the

state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency, and for the purposes of the Public Employees' Retirement Law, and where a county or city and county becomes a contracting agency, the employees and attachés of the superior court of the State of California in and for said county or city and county shall be considered employees of the contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital which became a contracting agency because of Section 20009.8 shall be deemed hospital employees from and after the effective date of contract with the hospital for retirement purposes. City employees who after the effective date of contract with the hospital become employed by such a hospital, shall be considered as new employees of such hospital for retirement purposes.

(d) Any person in the employ of a school employer.

SEC. 6. Section 20013 of the Government Code is amended to read:

20013. (a) "Member" means an employee who has qualified for membership in the Public Employees' Retirement System and on whose behalf an employer has become obligated to pay contributions.

(b) "State member" includes:

(1) State miscellaneous members.

(2) University members.

(3) Patrol members.

(4) State safety members.

(5) State industrial members.

(c) "Local member" includes:

(1) Local miscellaneous members.

(2) Local safety members.

(d) "School member" includes all employees within the jurisdiction of a school employer, other than local policemen.

SEC. 7. Section 20019.1 of the Government Code is repealed.

SEC. 8. Section 20019.2 of the Government Code is repealed.

SEC. 9. Section 20020.8 is added to the Government Code, to read:

20020.8. "Local policeman" also includes any officer or employee of a school district or a community college district which has established a police department pursuant to Section 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law

enforcement, even though such a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

The provisions of this section shall only apply to any school district or any community college district which, prior to the effective date of this section, had amended its contract to provide membership for local policemen.

SEC. 10. Section 20026.3 is added to the Government Code, to read:

20026.3. "Net earnings" means the earnings of the retirement fund less the amounts specified in Sections 20202.5 and 20203.

SEC. 11. Section 20131 of the Government Code is amended to read:

20131. The board shall credit all contributions of members and retired members in the retirement fund with interest at the current annual interest rate, compounded at each June 30th. For the purposes of this section, the current annual interest rate shall be not less than the current actuarial interest rate. In crediting interest for any fiscal year to contributions of members made during that year, the board may apply one interest rate to the total of such contributions made through the month next preceding the date through which interest is credited, under the assumption that such contributions were made in equal monthly amounts from the July 1st next preceding, to said month, both inclusive.

SEC. 12. Section 20131.1 is added to the Government Code, to read:

20131.1. The board shall credit all contributions of the state, school employer, and contracting agencies in the retirement fund with interest at the current net earnings rate compounded at each June 30th.

SEC. 13. Section 20132 is added to the Government Code, to read:

20132. Notwithstanding Section 20750.9, whenever the board determines that there is in any account a temporary excess of assets over actuarial liabilities the board may, in its discretion, utilize all or any portion of the temporary excess funds to reduce that employer's contributions for a period of time determined by the board. In the case of state employer accounts, the board shall annually review such accounts and shall report to the Legislature on the amount and disposition of the excess. Such excess funds shall not be available for any other purpose.

This section shall remain in effect only until June 30, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before June 30, 1984, deletes or extends such date.

SEC. 13.5. Section 20132.5 is added to the Government Code, to read:

20132.5. The board from time to time may credit to contributions of members, retired members, the state, and contracting agencies in the retirement fund such added interest as it deems proper based on earnings on investments in the current and prior years.

SEC. 14. Section 20203 of the Government Code is amended to read:

20203. Interest earned on any cash deposit in a bank by the Treasurer and income on other assets constituting a part of the fund shall be credited to the fund as received. Income, of whatever nature, earned on the Retirement Fund during any fiscal year, in excess of the interest credited to contributions during that year shall be retained in the fund as a reserve against deficiencies in interest earned in other years, and losses under investments.

Unless specifically authorized by provisions of this part, no funds in the reserve against deficiencies shall be available for the payment of benefits. The board, however, may apply to reduce the book value of securities purchased all or part of the excess of the proceeds of the sale or the redemption prior to maturity of securities over the book value of the securities sold (a) if the purchase of securities is made with those proceeds and (b) if the terms of both securities from the date of sale, redemption prior to maturity, or purchase, as the case may be, to the respective dates of maturity do not differ by more than five years. All applications of such excess proceeds, even with greater differences in terms, heretofore made by the board are hereby validated and confirmed.

At the end of each fiscal year, the amount in the reserve against deficiencies which exceeds 1 percent of the total assets of the system shall be credited to other accounts as prescribed by this part.

SEC. 15. Section 20230 of the Government Code is amended to read:

20230. In addition to other records and accounts, the board shall keep such records and accounts as may be necessary to compute at any time:

(a) The total accumulated contributions of members.

(b) The total accumulated contributions of retired members and of deceased members, to or on account of whom payments involving life contingencies are paid, less the annuity payments made to such members.

(c) The accumulated contributions of the state, school employers, and of contracting agencies held for the benefit of members on account of current service.

(d) All other accumulated contributions of the state, school employers, and of contracting agencies, which shall include the amounts available to meet the obligation of the state, school employers, and of the contracting agencies, respectively, on account of benefits that have been granted to, or on account of, retired and deceased employees and on account of prior service of members.

For the purposes of this section, all employers subject to Chapter 6 (commencing with Section 20740) shall be deemed to be a single account with respect to their local miscellaneous members, all other employers not subject to Chapter 6 shall be deemed to be a single account with respect to their local miscellaneous members, all employers of local safety members shall be deemed to be a single

account with respect to such members, and all employers of school members shall be deemed to be a single account with respect to such members.

SEC. 16. Section 20234 is added to the Government Code, to read:

20234. The board shall annually contract with an independent actuary to analyze and comment on the application of generally accepted actuarial practices to the actuarial assumptions utilized by the board during each fiscal year and the effect of the benefit provided by Section 21235 on employer contribution rates.

A copy of the report shall be filed with each house of the Legislature, the chairman of each affected policy committee, and the Governor at the same time as the report required by Section 20136.

SEC. 17. Section 20590 is added to the Government Code, to read:

20590. The assets and liabilities arising out of contracts with school employers, as defined in Section 20011.1, shall be merged, excluding that portion of a contract with respect to local policemen, as defined in Section 20020.8. Employer accumulated contributions credited to such entities on the effective date of this section, and all such contributions paid by a school employer, as defined in Section 20011.1, after the effective date of this section, shall be held exclusively for the benefit of school members, as defined in Section 20013(d), retired school members, and their beneficiaries.

A person who is a member under a contract between the board and such school districts or community college districts prior to July 1, 1983, shall not be denied any right extended to him or her by reason of such membership.

SEC. 18. Section 20740 of the Government Code is amended to read:

20740. "Employer" for purposes of this chapter means any contracting agency, except a contracting agency on and after the effective date of such agency's election to be subject to any amendment of this part effective on or after the effective date of this section which provides that it is inapplicable to a contracting agency unless and until the agency elects to be subject thereto.

SEC. 19. Section 20742 is added to the Government Code, to read:

20742. Notwithstanding any other provision of this part, the state's contribution to the retirement fund during fiscal year 1982–83 and subsequent fiscal years is a sum equal to the percentages of compensation paid the following categories:

(a) 18.345 percent with respect to state miscellaneous members.

(b) 18.971 percent with respect to state industrial members.

(c) 20.339 percent with respect to state safety members.

(d) 23.113 percent with respect to state patrol members.

SEC. 19.5. Section 20743 is added to the Government Code, to read:

20743. Notwithstanding any other provision of this part, the contribution of a school employer to the retirement fund with respect to school members and local members employed by a school district or a county superintendent of schools, and the contribution

of any employer of a school member, as defined in Section 20019.2, during fiscal year 1982–83 and subsequent fiscal years is a sum equal to 12.045 percent of the compensation paid to such members.

SEC. 20. Section 20750.144 of the Government Code is repealed.

SEC. 21. Section 20750.8 of the Government Code is amended to read:

20750.8. Each contracting agency and school employer which is an employer for purposes of this chapter shall make contributions in addition to those otherwise specified in this chapter in amounts to be fixed and determined by the board on account of unpaid liability for prior service and on account of liability for benefits under Sections 21263 to 21263.3, inclusive, and 21382 of this code and benefits provided local safety members. Payments shall be under such arrangement as may be agreed to by the board.

SEC. 22. Section 20750.85 of the Government Code is repealed.

SEC. 23. Section 20750.86 of the Government Code is repealed.

SEC. 24. Section 20755 of the Government Code is amended to read:

20755. The contributions of the state and all employers, as defined in Section 20740, with respect to miscellaneous members shall be applied by the board during each fiscal year to collectively meet the obligations with respect to miscellaneous members under this system as follows:

(a) First, in an amount equal to the liabilities accruing (1) because of state service of members for which normal contributions have been made, (2) on account of current service pensions and disability retirement pensions, and (3) the portion of death allowance provided from state and employer contributions. Such amount shall be determined by the most recent actuarial valuation as interpreted by the actuary.

(b) Second, in an amount equal to the payments of death benefits made from state and employer contributions during such year for deaths not qualifying for death allowances.

(c) Third, the balance of such contributions, on the liabilities accrued on account of prior service pensions.

SEC. 25. Section 20755.1 is added to the Government Code, to read:

20755.1. The contributions of all school employers with respect to school members shall be applied by the board during each fiscal year to meet the obligations of all school employers collectively with respect to school members under this system as follows:

(a) First, in an amount equal to the liabilities accruing (1) because of state service of members for which normal contributions have been made, (2) on account of current service pensions and disability retirement pensions, and (3) the portion of death allowances provided from employer contributions. Such amount shall be determined by the most recent actuarial valuation as interpreted by the actuary.

(b) Second, in an amount equal to the payments of death benefits

made from employer contributions during such year for deaths not qualifying for death allowances.

(c) Third, the balance of such contributions, on the liabilities accrued on account of prior service pensions.

SEC. 26. Section 20758 of the Government Code is amended to read:

20758. Accumulated contributions other than contributions for prior service credited to or held as of the operative date of the amendments to this section at the 1971 Regular Session as having been made by a contracting agency to the extent subject to Section 20493, with respect to miscellaneous members, and all contributions thereafter made by an employer pursuant to this chapter, other than contributions pursuant to Section 20750.8, with respect to such members shall be held for the benefit of all such members of this system who are now or hereafter credited with service rendered as employees of any such employer, and for beneficiaries of this system who are now or hereafter entitled to receive benefits on account of such service.

SEC. 26.5. Section 20760 is added to the Government Code, to read:

20760. Notwithstanding any other provision of this chapter, if the board determines that the actuarial integrity of the system will not be adversely affected by the allocation or transfer of funds, it may at any time reduce the contribution to the retirement fund by the state or a school employer or a contracting agency for any prescribed period of time by crediting the amount it deems proper to the state, school employer, or contracting agency account from available funds.

SEC. 27. Section 20801 of the Government Code is amended to read:

20801. "State service" means service rendered as an employee or officer (employed, appointed or elected) of the state, the university, a school employer, or a contracting agency, for compensation, and only while he is receiving compensation from such employer therefor, except as provided in Article 4 (commencing with Section 20890) of this chapter.

SEC. 28. Section 20805 of the Government Code is amended to read:

20805. (a) "Prior service" as applied to a state member who while employed on a part-time basis became a member because of amendments of the laws governing this system or because of a change in his employment status to at least a half-time basis, means all state service rendered by him prior to the time he became a member.

(b) As applied to other members, "prior service" means all state service rendered by:

(1) A university member prior to August 27, 1937.

(2) A state member other than a university member, prior to January 1, 1932.

(3) A local member or school member prior to the effective date of the contract under which he became a member.

SEC. 29. Section 21232 is added to the Government Code, to read:

21232. (a) The board shall transfer the sum of one hundred thirty million dollars ($130,000,000) from the reserve for deficiencies retained in the retirement fund pursuant to Section 20203 into a special account which is appropriated to the board without regard to fiscal years, for use for the sole purpose of providing quarterly increases from October 1, 1982, through September 30, 1984, as specified in subdivision (d), in the monthly allowance of every retired person or survivor or beneficiary of a state or local member or retired person, who was eligible to receive any allowance on December 31, 1979, or who receives a benefit on account of a retired member who was eligible to receive an allowance on December 31, 1979, notwithstanding the limitations on those increases imposed by this article and in addition to any other adjustment made pursuant to this article.

(b) Whenever the board determines that there are sufficient funds in the special account created pursuant to subdivision (a), the board shall apply those funds to the increases authorized by this section. If the funds in the special account are not sufficient to pay the increases prescribed in subdivision (d), the board shall proportionately reduce all payments.

(c) The board shall inform each recipient of benefits under subdivision (a) that the increases are not cumulative and shall not be included in their base allowance and may be available for only a limited period of time.

(d) The total quarterly increases payable for the period from October 1, 1982, to September 30, 1984, shall be 10 percent of the quarterly allowance payable to an annuitant or eligible survivor or beneficiary on October 1, 1980. The board, on October 1, 1982, and, upon the commencement of each such quarter thereafter, shall pay the benefit provided by this section for the succeeding quarter.

SEC. 30. Section 21235 is added to the Government Code, to read:

21235. (a) The board shall establish an Investment Dividend Disbursement Account, or such subaccounts as may be established by the board, in the retirement fund consisting of that amount of the earnings of the retirement fund which remains after the sequential application of Sections 20202.5, 20203, 20131.1, and 20131. The transfer to the account made each year shall be adjusted to reflect any difference between assumptions respecting salary increases and the actual salary experience, as determined by the board.

This subdivision shall become operative on July 1, 1982, and shall remain operative only until July 1, 1987, when it shall cease to have any force or effect.

(b) The Investment Dividend Disbursement Account may be utilized, as specified in subdivision (e), to increase all monthly allowances paid by the system to an amount equal to a maximum of 75 percent of the purchasing power, as determined by the board, of

the initial monthly allowances that were received by every retired person or survivor or beneficiary of a state, school or local member or retired person who was eligible to receive any allowance at the end of each fiscal year. If sufficient funds are not available to adjust allowances to a maximum of 75 percent of purchasing power, the board shall adjust allowances to eligible recipients by a lesser amount. The board may, for reasons of insufficient funds, determine that no increase under this section shall be made.

This subdivision shall become operative on January 1, 1984, and shall remain operative only until January 1, 1989, when it shall cease to have any force or effect.

(c) The amount specified in subdivision (a) is hereby appropriated from the Investment Dividend Disbursement Account to the board without regard to fiscal years. Whenever the board determines that there are sufficient funds the board shall apply those funds to the increases authorized by this section. If the funds are more than sufficient to pay the increases prescribed in subdivision (b), the board shall retain the funds for three fiscal years. If, at the end of the third fiscal year, a balance remains, the funds allocated in the first fiscal year shall revert to the member accounts in the Public Employees' Retirement Fund. It is the intent of the Legislature that this method of reversion of remaining balances be continued under those circumstances.

(d) The board shall inform each recipient of benefits under subdivision (b) that the increases are not cumulative, not part of the base retirement allowance, and may be available for only a limited period of time and that the board may discontinue the increases.

(e) The board, on January 1, 1984, and, upon the commencement of each quarter thereafter, shall pay the benefit provided by this section for the succeeding quarter.

SEC. 31. Section 21263.4 of the Government Code is amended to read:

21263.4. Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, or of a school member none of whose service rendered in school service has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his retirement allowance as it was at his death and based on service credited to him as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life or until remarriage. If there be no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued

without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement other than optional settlement 1 shall apply only to a portion of his allowance as provided in Section 21330 with respect to allowances under Section 21263. If on the effective date of his retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

SEC. 32. Section 21263.5 of the Government Code is amended to read:

21263.5. Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, or of a school member some of whose service rendered in school employment has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his retirement allowance as it was at his death based on service credited to him as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life or until remarriage. The percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there be no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than optional settlement 1, shall apply only to a portion of the allowance as provided in Section 21330 with respect to allowances under Section 21263. If on the effective date of his retirement the member has no surviving spouse, eligible children, or dependent parents and

elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse" for purposes of this section means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

SEC. 33. Section 21263.6 is added to the Government Code, to read:

21263.6. The monthly allowance provided by Sections 21263.4 and 21263.5 shall be paid on account of retired school members who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4 and whose retirement dates were effective before July 1, 1983.

SEC. 33.5. Section 21263.65 is added to the Government Code, to read:

21263.65. The retirement allowance payable to a school member, whose retirement date was before July 1, 1983, and who elected optional settlement 2 or 3, or an optional settlement involving life contingency under optional settlement 4 or to a beneficiary of such a retired member, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on July 1, 1983, and the allowance as so increased shall be paid for time on and after that date and until April 1, 1984. The base allowance for adjustments due on April 1, 1984, and subsequent annual adjustments under Article 1.5 (commencing with Section 21220) shall be the allowance as so increased. The allowance payable to the beneficiary or beneficiaries of a member described in this section shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

SEC. 34. Section 21290 of the Government Code is amended to read:

21290. Upon retirement for disability a state miscellaneous member or school member who has attained age 60 shall receive his service retirement allowance.

SEC. 35. Section 60 of Chapter 115 of the Statutes of 1982 is amended to read:

Sec. 60. (a) Notwithstanding any other provision of law, the Superintendent of Public Instruction shall make the computations prescribed by this section.

(b) The superintendent shall compute the amount to be apportioned to each school district, and the amount to be allocated to each county office of education, for the second principal apportionment according to law.

(c) The superintendent shall reduce each apportionment and allocation computed pursuant to subdivision (b) by the amount for each school district and county office of education which is not paid for that district or office to the Public Employees' Retirement System pursuant to Section 59 for the 1981–82 fiscal year, exclusive of the amount of the federal share of employer contributions to the Public

Employees' Retirement System, as certified by the county superintendents, for employees supported by federal funds provided for a specific purpose and subject to federal supplanting restrictions. The apportionments and allocations shall be made as reduced pursuant to this subdivision. For purposes of accounting for this reduction, school districts and county offices of education shall determine the pro rata share of the reduction for each separate funding source or fund, and make the appropriate transfer.

(d) The superintendent shall compute the sum of the reductions made pursuant to subdivision (c) and shall certify that sum to the Controller.

(e) The amount certified pursuant to subdivision (d) shall not be transferred by the Controller from the General Fund to Section A of the State School Fund pursuant to Item 610-101-001 of the Budget Act of 1981 but shall instead be reverted to the unappropriated surplus of the General Fund.

SEC. 36. Section 61 of Chapter 115 of the Statutes of 1982 is amended to read:

Sec. 61. (a) Notwithstanding any other provisions of law, the Chancellor of the California Community Colleges shall make the computations prescribed by this section.

(b) The chancellor shall compute the amount to be apportioned to each community college district for the second principal apportionment according to law.

(c) The chancellor shall reduce each apportionment computed pursuant to subdivision (b) by the amount for each community college district which is not paid for that district to the Public Employees' Retirement System pursuant to Section 59 for the 1981–82 fiscal year, exclusive of the amount of the federal share of employer contributions to the Public Employees' Retirement System, for employees supported by federal funds provided for a specific purpose and subject to federal supplanting restrictions. The apportionments shall be made as reduced pursuant to this subdivision. For purposes of accounting for this reduction, each community college district shall determine the pro rata share of the reduction for each separate funding source or fund, and make the appropriate transfer.

(d) The chancellor shall compute the sum of the reductions made pursuant to subdivision (c) and shall certify that sum to the Controller.

(e) The amount certified pursuant to subdivision (d) shall not be transferred by the Controller from the General Fund to Section B of the State School Fund pursuant to Item 687-101-001 of the Budget Act of 1981 but shall instead be reverted to the unappropriated surplus of the General Fund.

SEC. 36.5. Sections 21232, 21235, 21263.4, 21263.5, 21263.6, and 21263.65 of the Government Code shall become operative after the Board of Administration has acted to: a) reduce employer contribution rates for 1982–83 in the manner authorized at the June

16, 1982, board meeting, b) reduce the reserve against deficiencies to levels prescribed in Section 20203, as amended by this act, and c) utilize additional interest earnings credited to employer accounts pursuant to subsection (b) to further reduce employer contribution rates for 1982–83.

SEC. 37. If any provision of this act or the application thereof to any person or circumstances is temporarily stayed or held invalid, the temporary stay or invalidity shall not affect other provisions or applications of the act which can be given effect without the temporarily stayed or invalid provision or application, and to this end the provisions of this act are severable.

SEC. 38. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 39. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 33.5, and 34 of this act shall become operative on July 1, 1983.

Section 13.5, 14, 26.5, and 29 of this act shall become operative on July 1, 1982.

SEC. 40. There is hereby appropriated from the Public Employees' Retirement Fund to the Board of Administration of the Public Employees' Retirement System the sum of two hundred fourteen million dollars ($214,000,000) for the purpose of administering the provisions of this act.

SEC. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the benefits of this act to become available commencing with the 1982–83 fiscal year and subsequent fiscal years, this act must take effect immediately.

CHAPTER 331

An act to amend Section 1463.14 of the Penal Code, and to amend Sections 23103, 23104, 23160, 23165, 23170, 23180, 23185, and 23190 of the Vehicle Code, relating to fines, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 1463.14 of the Penal Code is amended to read:

1463.14. Notwithstanding the provisions of Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account which shall be used exclusively to pay for the cost of performing for the county, or a city within the county, analysis of blood, breath or urine for alcohol content or for the presence of drugs, or for services related to that testing. The sum shall not exceed the reasonable cost of providing the services for which the sum is intended.

On November 1 of each year, the treasurer of each county shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys into the general fund of the county. The county may retain an amount of that money equal to its administrative cost incurred pursuant to this section, and shall distribute the remainder pursuant to Section 1463.

The Department of Justice shall promulgate rules and regulations to implement the provisions of this section.

SEC. 2. Section 23103 of the Vehicle Code is amended to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars ($145) nor more than five hundred dollars ($500), or by both fine and imprisonment, except as provided in Section 23104.

SEC. 3. Section 23104 of the Vehicle Code is amended to read:

23104. Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred twenty dollars ($220) nor more than five hundred dollars ($500), or by both fine and imprisonment.

SEC. 4. Section 23160 of the Vehicle Code is amended to read:

23160. (a) If any person is convicted of a first violation of Section 23152, that person shall be punished by imprisonment in the county jail for not less than four days nor more than six months and by a fine of not less than three hundred ninety dollars ($390) nor more than five hundred dollars ($500).

(b) The court may order that any person punished under this section, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(c) The court shall order the department to suspend the privilege to operate a motor vehicle of a person punished under this section for six months pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 5. Section 23165 of the Vehicle Code is amended to read:

23165. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of a prior offense which resulted in conviction of a violation of Section 23152 or 23153, or a prior offense which occurred on or after January 1, 1982, which resulted in a conviction of a violation of Section 23103 as specified in Section 23103.5, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000).

SEC. 6. Section 23170 of the Vehicle Code is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked pursuant to paragraph (5) of subdivision (a) of Section 13352.

SEC. 7. Section 23180 of the Vehicle Code is amended to read:

23180. If any person is convicted of a first violation of Section 23153, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000).

SEC. 8. Section 23185 of the Vehicle Code is amended to read:

23185. If any person is convicted of a violation of Section 23153 and the offense occurred within five years of a prior offense which resulted in a conviction of a violation of Section 23152 or 23153, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 120 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than five thousand dollars ($5,000).

SEC. 9. Section 23190 of the Vehicle Code is amended to read:

23190. If any person is convicted of a violation of Section 23153 and the offense occurred within five years of two or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand fifteen dollars ($1,015) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked pursuant to paragraph (6) of subdivision (a) of Section 13352.

SEC. 10. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Funding for the state-run blood-alcohol laboratory program will expire July 1, 1982. This bill continues a source of funding for this program. In order that there be no interruption in this funding source, it is necessary that this act take immediate effect.

CHAPTER 332

An act to amend Section 2 of Chapter 938 of the Statutes of 1981, relating to the Mediterranean fruit fly, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. The Legislature finds and declares that, in order to control the fiscal impact of the Mediterranean fruit fly infestation, it is necessary to create a special fund, that this fund be the exclusive source of funding for payment of all legitimate costs, claims, judgments, or other liabilities arising from the Mediterranean fruit fly infestation.

SEC. 2. This act is applicable to all claims whether arising before or after the effective date of this act, and to all settlements or judgments, including, but not limited to, those for injuries to persons or property and for wrongful death, contribution, or indemnification, arising from any effort of the state or its agencies, officers, or employees, or of any public entities, persons, or business entities working under the supervision or direction of the state, to eradicate, control, or otherwise combat the infestation of the Mediterranean

fruit fly within this state or to protect California crops from the direct or indirect effects, whether physical or economic of that infestation, and is further applicable to costs incurred by the State Board of Control for the administration of those claims, settlements, or judgments.

All claims presented to the board for personal injuries or for wrongful death arising from the activities specified in this section shall be rejected. The claimant may then file a court action on the claim pursuant to Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

SEC. 3. (a) There is hereby created in the State Treasury the Mediterranean Fruit Fly Claims Fund for the purpose of paying claims, settlements, or judgments against the state or its agencies, officers, employees, or public entities, persons, or business entities working under the supervision or direction of the state, arising from any of the activities specified in Section 2 of this act. Moneys in the fund are hereby continuously appropriated to the State Board of Control for that purpose.

(b) It is the intent of the Legislature that the Mediterranean Fruit Fly Claims Fund shall be the exclusive source of funds for the payment of claims, settlements, or judgments to which this act is applicable.

(c) Federal funds received for the payment of claims, settlements, or judgments to which this act is applicable shall be deposited in the Mediterranean Fruit Fly Claims Fund and, where possible, shall be used in lieu of General Fund moneys.

(d) The State Board of Control shall report to the fiscal committees of the Legislature, on a quarterly basis, on the number, types, and dollar amounts of claims approved by the State Board of Control to be paid from the Mediterranean Fruit Fly Claims Fund. The board may pay claims from the fund up to and including an aggregate total of two million dollars ($2,000,000) without making a prior report to the Joint Legislative Budget Committee. The number, types, and dollar amounts of these claims shall be reported to the fiscal committees of the Legislature on August 2, 1982. Claims to be paid after the initial two million dollars ($2,000,000) have been allocated shall first be reported to the Chairman of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to final board approval of each claim or settlement. The chairman, or his or her designee, may determine a shorter time for this prior reporting requirement in each instance.

(e) The maximum amount payable per vehicle for any claim, settlement, or judgment for automobile or truck paint damage arising from the activities specified in Section 2 of this act shall be the sum of six hundred eighty-nine dollars ($689) or 20 percent of the current value of the vehicle, whichever is less. Nothing herein shall restrict the board's discretion to allow an amount less than the maximum set forth above. The board may require whatever supporting documents it deems necessary from the claimants,

including invoices or estimates.

SEC. 4. The sum of four million one hundred fifty thousand dollars ($4,150,000) is hereby appropriated from the General Fund to the Director of Finance to be allocated as follows:

(a) For transfer to the Mediterranean Fruit Fly Claims Fund $4,000,000

(b) For transfer to and in augmentation of the support budget of the State Board of Control for costs incurred for processing the claims to which this act is applicable, in such amounts and at such times as the Director of Finance deems necessary $150,000

SEC. 5. Section 2 of Chapter 938 of the Statutes of 1981 is amended to read:

Sec. 2. The sum of fifty million dollars ($50,000,000) is hereby appropriated from the General Fund for reimbursement of activities required to carry out Section 1 of this act in accordance with the following schedule:

(a) For allocation to state agencies to defray actual costs incurred by them pursuant to this act from July 1, 1981 to February 28, 1982, Department of Finance $50,000,000
Provided, that the Director of Food and Agriculture shall make every reasonable effort to obtain federal funds to help defray the costs of the activities specified in Section 1 of this act.

Provided further, that any of the funds appropriated by this section which have not been either encumbered for a specific expense or retained for contingency purposes in a reasonable amount to wind up the eradication program as determined by the Director of Finance by the date on which the Director of Food and Agriculture announces that the eradication of the Mediterranean fruit fly is complete shall revert to the General Fund.

Provided further, that reimbursement to any county agricultural commissioner shall be contingent upon his or her compliance with the terms of the Operational Protocol agreement entered into between the Department of Food and Agriculture and the United States Department of Agriculture regarding the Mediterranean fruit fly eradication project, including the 7-day Mediterranean

fruit fly trap monitoring schedule which has also been agreed upon by the Department of Food and Agriculture and the United States Department of Agriculture.

Provided further, that any of the funds appropriated in this section not required for actual costs from July 1, 1981, to February 28, 1982, may be used to defray actual costs incurred subsequent to February 28, 1982, and shall be subject to the same review requirements set forth in Section 3 of this act.

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

The limited fiscal reserves of state government are extremely burdened as a result of unanticipated reductions in federal spending and state revenues and an unanticipated increase in the cost of state programs, including the Mediterranean fruit fly eradication effort. This fiscal situation requires the imposition of controls which will assure the orderly allocation of the state's limited fiscal resources, and thus it is necessary that this act take effect immediately.

CHAPTER 333

An act to amend Section 29125 of the Government Code, relating to counties.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 29125 of the Government Code is amended to read:

29125. Transfers and revisions may be made with respect to the appropriations as specified in the resolution of adoption of the budget, except with respect to transfers from the appropriations for contingencies, by an action formally adopted by the board at a regular or special meeting and entered in its minutes. The board may designate a county official to approve transfers and revisions of appropriations, objects, and subobjects within a budget unit.

CHAPTER 334

An act to amend Section 16479 of the Public Utilities Code, relating to public utility districts.

[Approved by Governor June 30, 1982 Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 16479 of the Public Utilities Code is amended to read:

16479. If the Board of Directors of the Tahoe City Public Utility District or of the North Tahoe Public Utility District determines to use all or any portion of a surplus remaining in the improvement fund from any assessment proceeding to improve the sewer system within district's jurisdiction in accordance with the provisions of subdivision (c) of Section 10427 of the Streets and Highways Code, all of the surpluses to be used for the maintenance of the improvements may be transferred by the legislative body to a single fund for the maintenance and operation of the sewer system without regard to the proportion of the funds so created attributable to each proceeding from which the surplus arose.

The board of directors shall transfer to such single fund the same percentage of the surplus from each improvement fund. The fact that in one or more of such improvement funds no surplus exists shall not prevent the board of directors from proceeding pursuant to this section as to all improvement funds in which a surplus does exist if a surplus of no less than 2½ percent of the total cost exists in no less than 75 percent of such funds.

This section, applicable only to the Tahoe City Public Utility District and the North Tahoe Public Utility District, is necessary because of unique and special fiscal management problems of improvement districts in the Lake Tahoe Basin.

CHAPTER 335

An act to add Chapter 2.85 (commencing with Section 35565) to Part 5 of Division 13 of the Water Code, relating to water districts.

[Approved by Governor June 30, 1982 Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Chapter 2.85 (commencing with Section 35565) is added to Part 5 of Division 13 of the Water Code, to read:

CHAPTER 2.85. PROVISIONS PERTAINING ONLY TO THE BORREGO WATER DISTRICT

35565. The provisions of this chapter shall apply only to the Borrego Water District.

35565.1. For the purpose of providing mosquito abatement and vector control services to the lands and inhabitants of the district, and in addition to the powers contained in this division, the district may exercise any of the powers of a mosquito abatement district or vector control district as set forth in Article 4 (commencing with Section 2270) of Chapter 5 of Division 3 of the Health and Safety Code.

35565.2. Mosquito abatement and vector control services shall be considered a lawful district purpose and charges may be levied pursuant to Section 35470 to defray the expenses of those services.

35565.3. The district may establish zones of benefit for the purpose of providing mosquito abatement and vector control services. A zone may include the entire district or any portion thereof depending upon the need for or level of services provided. The charges authorized pursuant to Section 35565.2 may vary from zone to zone, and territory may be annexed to, or detached from, a zone.

35565.4. No zone shall be established, nor any land annexed to nor detached from, any existing zone, unless the board by resolution declares its intent to do so and holds a public hearing thereon at a specified time and place where all interested persons may appear and be heard. Notice of the hearing shall be given by publishing a copy of the resolution in a newspaper of general circulation published in the County of San Diego pursuant to Section 6066 of the Government Code.

SEC. 2. The Legislature hereby declares that local agencies of the state should, whenever local conditions and circumstances permit, reorganize so as to effectively consolidate their functions. Investigations have revealed that services previously provided by the Borrego Valley Mosquito Abatement District can now be provided more effectively only within the boundaries of the Borrego Water District, which district lies wholly within the Borrego Valley Mosquito Abatement District. Further, the governing board of the Borrego Valley Mosquito Abatement District, having determined that it does not have sufficient revenue sources to continue operations, has initiated proceedings to dissolve that district and has requested the Borrego Water District to assume its functions and responsibilities. The Borrego Water District, having agreed to this transfer of functions and responsibilities, is in need of specific statutory authority broadening the scope of powers of the Borrego Water District, enabling it to reactivate and carry on the functions of the Borrego Valley Mosquito Abatement District. The Legislature therefore finds and declares that a special law is necessary with respect to the Borrego Water District, that the provisions of Section

1 of this act are needed to meet the special circumstances within the district, and that a general law cannot be made applicable.

CHAPTER 336

An act to amend Section 96 of Chapter 22 of the Statutes of 1960, First Extraordinary Session, relating to the Bethel Island Municipal Improvement District.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 96 of Chapter 22 of the Statutes of 1960, First Extraordinary Session, is amended to read:

Sec. 96. The district may make and enforce all necessary and proper regulations, not in conflict with the laws of this State, for the removal of garbage and refuse and the supplying of sewage, water, storm water and reclamation service. A violation of a regulation of the district is an infraction punishable as provided in Sections 19c and 19d of the Penal Code. A regulation of the board shall be adopted by ordinance and shall be posted for one week in three public places in the district and shall take effect upon expiration of the week of such posting. A subsequent finding of the board, entered in its minutes, that posting has been made is conclusive evidence that the posting has been properly made.

CHAPTER 337

An act to amend Section 29130 of the Government Code, relating to county budgets, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 29130 of the Government Code is amended to read:

29130. Balances in appropriations for contingencies, including accretions from cancellation of specific appropriations, and revenues from any source, including but not limited to amounts received from subventions, grants, gifts, judgments, donations, fines, forfeitures, penalties, insurance claim settlements, proceeds of taxes, revenues derived from services provided under contract or agreement which

are not specifically set forth in the budget, and charges for current services, which are either in excess of anticipated amounts or are not specifically set forth in the budget, may be made available for specific appropriation by a four-fifths vote of the board at any regular meeting, or at any special meeting of which public notice has been given.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the authority of county boards of supervisors, as established by Chapter 168 of the Statutes of 1981, so as to assure the orderly implementation of that act without delay, it is necessary that this act take effect immediately.

CHAPTER 338

An act to amend Section 6800 of the Labor Code, relating to railroads.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. It is the intent of the Legislature that the Division of Occupational Safety and Health be granted jurisdiction over the occupational safety and health of all employees of rail rapid transit systems, electric interurban railroads, and street railroads. Nothing contained herein shall be deemed to grant the division jurisdiction over the operations of rail rapid transit systems, electric interurban railroads, and street railroads insofar as operations affect the safety of their customers or the general public.

SEC. 2. Section 6800 of the Labor Code is amended to read:

6800. The division has jurisdiction over:

(a) The safety and health of railroad employees employed in offices and in shops devoted to the construction, maintenance or repair of railroad equipment, and all other railroad employees with respect to occupational health, including, but not limited to, air contaminants, noise, sanitation and availability of drinking water.

(b) The occupational safety and health of employees of rail rapid transit systems, electric interurban railroads, or street railroads.

(c) The safety of employees of all other public utilities as defined in the Public Utilities Act.

CHAPTER 339

An act to add Section 10505 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 10505 is added to the Welfare and Institutions Code, to read:

10505. Prior to granting any changes in benefits or levels of service for public social services programs, including the Medi-Cal program, funded by the federal government for benefits or services which are permitted, but not required to be given, under federal law, and which changes program or county administrative costs funded from the General Fund in excess of five hundred thousand dollars ($500,000) on an annual basis, there shall first be obtained a certification by the State Department of Finance that funds are available for the expenditure and that the department has identified the specific funding sources, and has determined whether the expenditure involves a federal mandatory or optional benefit or level of service.

The Department of Finance may not approve any expenditure covered by this section until at least 30 days after the information required by this section has been provided to the chairman of the committee of each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee.

CHAPTER 340

An act to amend Section 338 of the Code of Civil Procedure, relating to limitation of action.

[Approved by Governor June 30, 1982 Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture.

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The

cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any art or artifact is not deemed to have accrued until the discovery of the whereabouts of the art or artifact by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

4. An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

5. An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

6. An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

7. An action for slander of title to real property.

8. An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

9. An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or the provisions of California law relating to hazardous waste control (Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Department of Health Services, the State Water Resources Control Board, or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

CHAPTER 341

An act to amend Section 10203.5 of, and to repeal Section 10203.6 of, the Insurance Code, relating to financial institutions.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 10203.5 of the Insurance Code is amended to read:

10203.5. (a) Life insurance conforming to all the following conditions is another form of group life insurance:

(1) Covering one of the following groups:

(A) All members are or become borrowers from one financial institution, including subsidiary or affiliated persons, under an agreement to repay the sum borrowed.

(B) All members are or become purchasers of merchandise or other property (exclusive of securities, investment certificates and bank deposits) under an agreement to pay the balance of the purchase price.

(2) The group numbers not less than 100 new entrants yearly or, in the case of a credit union, not less than 50 borrowers yearly.

(3) The amount insured on any one borrower or purchaser does not exceed:

(A) The amount of the loan commitment in the case of an agricultural or horticultural loan commitment (as defined in section 10203.55) repayable in one sum or in irregular installments within a period not in excess of 18 months from the initial date of the loan commitment, or one hundred thousand dollars ($100,000), whichever is less, and

(B) In all other cases the balance of the indebtedness to the financial institution or vendor, or fifty thousand dollars ($50,000), whichever is less, on any one life.

(4) The repayment or payment of purchase price is to be made, under the agreement of loan or purchase; in substantially equal installments over a period not exceeding 40 years; or in installments that may vary according to the terms of a signed agreement; or in payments or installments in accordance with the usual terms of the creditor in the case of an open-ended agreement to extend credit, a revolving loan or revolving charge account; or in one sum or irregular installments within a period not in excess of 18 months from the initial date of the commitment on an agricultural or horticultural loan.

(5) The policy is issued upon application of and made payable to the financial institution, vendor, or a creditor to whom such vendor may transfer title to the indebtedness, as beneficiary, and the premiums are paid by or through the financial institution, vendor, or

such creditor.

(b) A policy of insurance conforming to the provisions of this section is not subject to the provisions of Section 10209 or 10213.

SEC. 2. Section 10203.6 of the Insurance Code is repealed.

CHAPTER 342

An act relating to the Department of Consumer Affairs, and making an appropriation therefor, to take effect immediately, usual current expenses.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Notwithstanding the provisos applicable to Item 984-001-494 of the Budget Act of 1981, the following sums of money, or so much thereof as may be necessary, are hereby appropriated from the unencumbered balances of the following funds to meet contingencies and emergencies during the 1981–82 fiscal year, as follows:

(a) From the Physician's Assistant Fund, nine thousand dollars ($9,000) to the Physician's Assistant Examining Committee in augmentation of Item 138-042-280 of the Budget Act of 1981 (Chapter 99, Statutes of 1981) in order to carry out the provisions of Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code for the remainder of the 1981–82 fiscal year.

(b) From the Pharmacy Board Contingent Fund, twenty-three thousand dollars ($23,000) to the California State Board of Pharmacy in augmentation of Item 149-048-767 of the Budget Act of 1981 (Chapter 99, Statutes of 1981) in order to carry out the provisions of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code for the remainder of the 1981–82 fiscal year.

(c) From the Professional Engineers' Fund, ninety-two thousand dollars ($92,000) to the State Board of Registration for Professional Engineers in augmentation of Item 150-050-770 of the Budget Act of 1981 (Chapter 99, Statutes of 1981) in order to carry out the provisions of Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code for the remainder of the 1981–82 fiscal year.

(d) From the Shorthand Reporters' Fund, nine thousand dollars ($9,000) to the Certified Shorthand Reporters Board in augmentation of Item 152-054-771 of the Budget Act of 1981 (Chapter 99, Statutes of 1981) in order to carry out the provisions of Chapter 13 (commencing with Section 8000) of Division 3 of the Business and Professions Code for the remainder of the 1981–82 fiscal year.

(e) From the State Dentistry Fund, twenty-seven thousand dollars ($27,000) to the Board of Dental Examiners of California in augmentation of Item 125-022-741 of the Budget Act of 1981 (Chapter 99, Statutes of 1981) in order to carry out the provisions of Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code for the remainder of the 1981–82 fiscal year.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 343

An act to repeal and add Section 84313 to, and to repeal Section 84314 of, the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982 Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 84313 of the Education Code is repealed.

SEC. 2. Section 84313 is added to the Education Code, to read:

84313. For each of three fiscal years, the Controller shall deduct from apportionments paid to a community college district pursuant to law, an amount not less than one-third of the amount actually allocated to the district pursuant to this article, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district.

For each of three fiscal years, the amount deducted by the Controller pursuant to this section shall be reapportioned to Section B of the State School Fund for apportionment by the Chancellor of the California Community Colleges to community college districts to alleviate any deficits in state funding in the year in which the loan is made or during the period of repayment.

SEC. 3. Section 84314 of the Education Code is repealed.

SEC. 4. From funds appropriated to Section B of the State School Fund for the 1981–82 fiscal year, a sum not to exceed seven hundred and fifty thousand dollars ($750,000) is hereby appropriated for allocation to the Compton Community College District for the 1982–83 fiscal year as an emergency apportionment pursuant to Article 2 (commencing with Section 84309) of Chapter 3 of Part 50 of the Education Code.

The effect of any deficit in the state general apportionments to community college districts in the 1981–82 fiscal year created by this reappropriation shall be excluded from the computation of

community college district base revenues in the 1982–83 fiscal year.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent undue fiscal hardships by the Compton Community College District for the 1981–82 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 344

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway, located within the territorial limits in which the officer or employee is empowered to act under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction or without a current California registration is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground

utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) When any unattended vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway.

CHAPTER 345

An act to amend Section 954.5 of the Streets and Highways Code, relating to county highways.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 954.5 of the Streets and Highways Code is amended to read:

954.5. (a) The board of supervisors may, by resolution, terminate the maintenance of any county highway if it finds that the highway is unnecessary for the public convenience.

(b) Evidence that a county highway is unnecessary for the public convenience shall be taken at a public hearing set in accordance with the procedures for vacation of a public street, highway, or service easement in Sections 8323 and 8324. Notice of the hearing shall be mailed to the owner of any property served by that portion of a county highway subject to the termination of maintenance. A county highway may be deemed unnecessary for the public convenience on the basis of any of the following:

(1) The county highway does not provide the primary access to occupied properties.

(2) Traffic on the county highway is intermittent and of low volume.

(3) The county highway is impassable for more than six months and there is no demand that it be reopened.

(c) A certified copy of the resolution terminating maintenance shall be recorded as provided in Section 8325.

(d) If the board of supervisors resumes maintenance of a county highway on which maintenance was terminated under this section, a notice of maintenance shall be recorded in the office of the county recorder.

(e) If a determination is made that maintenance is no longer necessary, the county shall post signs clearly visible from the traveled highway at each intersection of the highway for which maintenance is being terminated with a maintained highway indicating that the county no longer maintains the highway. The sign shall read as follows: "This road is not maintained. _____ County is not responsible for any loss or injury suffered by reason of its use." The county shall provide adequate maintenance to ensure that the signs remain posted in the appropriate places and the message is legible for a period of one year. Once such action is taken and duly recorded and the required signs are posted, the county shall not be held liable for the death of or injury to a vehicle owner, operator, or passenger, or for damage to a vehicle or its contents, resulting from a dangerous condition on such highway.

CHAPTER 346

An act to amend Section 11770 of the Insurance Code, relating to the State Compensation Insurance Fund.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 11770 of the Insurance Code is amended to read:

11770. The State Compensation Insurance Fund is continued in existence, to be administered by its board of directors for the purpose of transacting workers' compensation insurance, and insurance against the expense of defending any suit for serious and willful misconduct, against an employer or his agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for employees and their dependents. Any appropriation made therefrom or thereto before the effective date of this code shall continue to be available for the purposes for which it was made.

The board of directors of the State Compensation Insurance Fund is composed of the Director of Industrial Relations, who is chairman thereof, and four members who shall be appointed by the Governor. The term of office of the members of the board, other than that of the director, shall be four years and they shall hold office until the

appointment and qualification of their successors. The terms of the first four members so appointed shall expire as follows: one on January 15, 1946; one each on January 15, 1947, January 15, 1948, and January 15, 1949. Each member shall receive his actual and necessary traveling expenses incurred in the performance of his duty as a member and, except the Director of Industrial Relations, fifty dollars ($50) for each day of his actual attendance at meetings of the board. In order to qualify for membership on the board, each member other than the director shall have been a policyholder or the employee of a policyholder in the State Compensation Insurance Fund for one year prior to his appointment, and must continue in such status during the period of his membership.

CHAPTER 347

An act to add Section 11080.5 to the Penal Code, relating to parole, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982 Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 11080.5 is added to the Penal Code, to read:

11080.5. A chief of police of a city or the sheriff of a county shall be authorized to request and receive relevant information concerning persons when on parole who are or may be residing or temporarily domiciled in that city or county and who have been convicted of a federal crime which could have been prosecuted as a felony under the penal provisions of this state.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to promote the public safety, it is necessary that this act take effect immediately.

CHAPTER 348

An act to amend Sections 5056, 5056.5, 6702, and 7184.1 of the Financial Code, relating to loans.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 5056 of the Financial Code is amended to read:

5056. "Branch" means any office or other place of business owned and operated by an association, where subscriptions are sold, taken, or solicited for shares, stock, or investment certificates of such association or where such shares, stock, or investment certificates are sold or issued, otherwise than as security for or in connection with a loan by such association. The principal office, service offices, or remote service units of an association shall not be deemed to be a branch of the association.

SEC. 2. Section 5056.5 of the Financial Code is amended to read:

5056.5. "Service office" means any office or other place of business operated by one or more associations, other than the principal office, a branch office, or a remote service unit of an association, where activities are confined to processing and storing data and records, accounting, printing, storing of supplies, processing of loan transactions, and such other activities as the commissioner shall approve, except that savings deposits and withdrawals shall not be permitted.

SEC. 3. Section 6702 of the Financial Code is amended to read:

6702. An association may invest in, hold, buy, and sell the following:

(a) Real property used or to be used primarily as the principal office or branch of the association, and real property used or to be used primarily as a service office or office of the service corporation of the association or an undivided interest in real property used or to be used primarily as a service office or office of the association or its service corporation and of other associations owning the other undivided interests in such real property. As used in this subdivision the term real property includes (1) real property in reasonably close proximity to a principal, branch, or service office used or to be used primarily as a parking lot in connection with the operations of such office and (2) structures or buildings located on land owned in fee or held under a lease or sublease by the association with an unexpired term of 25 years at the date of execution by the association of such lease or sublease. Except as provided in Section 6703 no association shall invest in such real property or in such structures or buildings more than one-half of the sum of its statutory net worth.

(b) Furniture, fixtures, furnishings, equipment and leasehold improvements necessary or proper for the business of the association, or for use in connection with properties owned by or securing loans of the association. Leasehold improvements as used herein shall not include structures or buildings referred to in subdivision (a) of this section. Except as provided in Section 6703 no association shall invest in furniture, fixtures, furnishings, equipment, and leasehold improvements as defined herein for its offices more than 30 percent of the sum of its statutory net worth.

(c) United States government bonds and treasury certificates, or any bonds, debentures, notes, or other obligations guaranteed by the United States of America, and obligations issued or guaranteed by the Government National Mortgage Association.

(d) Bonds, debentures, notes, and other securities issued or guaranteed in whole or in part by any federal home loan bank, or the Federal Savings and Loan Insurance Corporation, or other similar federal agency.

(e) Consolidated federal home loan bank bonds, debentures, or notes.

(f) Bonds of this state or of any flood control and water conservation districts or any zone thereof having an assessed valuation on taxable real property of not less than one million dollars ($1,000,000), county, city and county, city, metropolitan water district, municipal utility district, any special district established by and within any municipal utility district, transit district, rapid transit district, metropolitan transit authority, flood control district, or school district of the State of California.

(g) Bonds and other securities which are expressly authorized as legal investments for or purchase by savings banks in this state, bankers' acceptances of the kind, character, and maturity eligible for rediscount with a Federal Reserve bank, and such other securities as the commissioner may authorize by rules and regulations.

(h) Bonds issued by any railroad corporation or any public utility corporation substantially all of the properties of which are located in the United States of America. Railway corporations and public utility corporations, as used in this subdivision, do not include street railway corporations.

(i) Stock, shares, debentures and bonds of any international home loan bank which may hereafter be incorporated by authority of an act of Congress.

(j) California street improvement bonds. No association at any one time shall have invested pursuant to the sole authority of this subdivision an aggregate amount in excess of 2 percent of the then total assets of the association.

(k) Stock issued by any federal home loan bank or other similar federal agency of which the association is eligible to be a member.

(*l*) Bonds and other securities as provided in Division 11 of this code.

(m) Stocks, bonds, debentures, participations, and other obligations of or issued by the Federal National Mortgage Association and the Small Business Administration. No association at any one time shall have invested pursuant to the sole authority of this subdivision an aggregate amount in excess of 5 percent of the then total assets of the association.

(n) Loans and interests in loans on the security of real property located in foreign countries guaranteed by an agency of the federal or state government; and capital stock, obligations, notes, and other securities of any thrift institution organized under the laws of a

foreign country and engaged in the business of making loans on the security of real estate in such country subject to regulations of the commissioner. No association shall make any investment pursuant to this subdivision if its aggregate outstanding investment under this subdivision would thereupon exceed 1 percent of the then total assets of the association.

(o) Subject to the rules and regulations of the commissioner, stock issued by a corporation authorized to be created pursuant to Title IX of the Housing and Urban Development Act of 1968, and may make investments in a partnership, limited partnership, or joint venture formed pursuant to Section 907(a) or 907(c) of such act.

(p) Any obligations or other instruments or securities of the Student Loan Marketing Association.

(q) Shares and investment certificates issued by any domestic savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act.

(r) Shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940. To be an eligible investment under this subdivision, the investment company's portfolio shall be restricted, changeable only by shareholder vote, to investments:

(1) That an association is authorized, without limitation as to percentage of assets, to invest in, sell, redeem, hold or otherwise deal with; or

(2) That an association may invest in, sell, redeem, hold or otherwise deal with pursuant to Section 6705.8.

The total investment made pursuant to paragraph (2) and Section 6705.8 shall not exceed the percent of total assets limitation, if any, provided in Section 6705.8.

SEC. 3.5. Section 6702 of the Financial Code is amended to read:

6702. An association may invest in, hold, buy, and sell the following:

(a) Real property used or to be used primarily as the principal office or branch of the association, and real property used or to be used primarily as a service office or office of the service corporation of the association or an undivided interest in real property used or to be used primarily as a service office or office of the association or its service corporation and of other associations owning the other undivided interests in such real property. As used in this subdivision the term real property includes (1) real property in reasonably close proximity to a principal, branch, or service office used or to be used primarily as a parking lot in connection with the operations of such office and (2) structures or buildings located on land owned in fee or held under a lease or sublease by the association with an unexpired term of 25 years at the date of execution by the association of such lease or sublease. Except as provided in Section 6703 no association shall invest in such real property or in such structures or buildings more than one-half of the sum of its statutory net worth.

(b) Furniture, fixtures, furnishings, equipment and leasehold improvements necessary or proper for the business of the association, or for use in connection with properties owned by or securing loans of the association. Leasehold improvements as used herein shall not include structures or buildings referred to in subdivision (a) of this section. Except as provided in Section 6703 no association shall invest in furniture, fixtures, furnishings, equipment, and leasehold improvements as defined herein for its offices more than 30 percent of the sum of its statutory net worth.

(c) United States government bonds and treasury certificates, or any bonds, debentures, notes, or other obligations guaranteed by the United States of America, and obligations issued or guaranteed by the Government National Mortgage Association.

(d) Bonds, debentures, notes, and other securities issued or guaranteed in whole or in part by any federal home loan bank, or the Federal Savings and Loan Insurance Corporation, or other similar federal agency.

(e) Consolidated federal home loan bank bonds, debentures, or notes.

(f) Bonds of this state or of any flood control and water conservation districts or any zone thereof having an assessed valuation on taxable real property of not less than one million dollars ($1,000,000), county, city and county, city, metropolitan water district, municipal utility district, any special district established by and within any municipal utility district, transit district, rapid transit district, metropolitan transit authority, flood control district, or school district of the State of California.

(g) Bonds and other securities which are expressly authorized as legal investments for or purchase by savings banks in this state, bankers' acceptances of the kind, character, and maturity eligible for rediscount with a Federal Reserve bank, and such other securities as the commissioner may authorize by rules and regulations.

(h) Bonds issued by any railroad corporation or any public utility corporation substantially all of the properties of which are located in the United States of America. Railway corporations and public utility corporations, as used in this subdivision, do not include street railway corporations.

(i) Stock, shares, debentures and bonds of any international home loan bank which may hereafter be incorporated by authority of an act of Congress.

(j) California street improvement bonds.

(k) Stock issued by any federal home loan bank or other similar federal agency of which the association is eligible to be a member.

(*l*) Bonds and other securities as provided in Division 11 of this code.

(m) Stocks, bonds, debentures, participations, and other obligations of or issued by the Federal National Mortgage Association and the Small Business Administration.

(n) Loans and interests in loans on the security of real property

located in foreign countries guaranteed by an agency of the federal or state government; and capital stock, obligations, notes, and other securities of any thrift institution organized under the laws of a foreign country and engaged in the business of making loans on the security of real estate in such country subject to regulations of the commissioner.

(o) Subject to the rules and regulations of the commissioner, stock issued by a corporation authorized to be created pursuant to Title IX of the Housing and Urban Development Act of 1968, and may make investments in a partnership, limited partnership, or joint venture formed pursuant to Section 907(a) or 907(c) of such act.

(p) Any obligations or other instruments or securities of the Student Loan Marketing Association.

(q) Shares and investment certificates issued by any domestic savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act.

(r) Shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940. To be an eligible investment under this subdivision, the investment company's portfolio shall be restricted, changeable only by shareholder vote, to investments:

(1) That an association is authorized, without limitation as to percentage of assets, to invest in, sell, redeem, hold or otherwise deal with; or

(2) That an association may invest in, sell, redeem, hold or otherwise deal with pursuant to Section 6705.8.

The total investment made pursuant to paragraph (2) and Section 6705.8 shall not exceed the percent of total assets limitation, if any, provided in Section 6705.8.

SEC. 4. Section 7184.1 of the Financial Code is amended to read:

7184.1. In addition to the loans in which it may invest under other provisions of this division, an association may invest an amount not exceeding the greater of its statutory net worth or 5 percent of its assets in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where the association relies substantially for repayment on: (a) the borrower's general credit standing and forecast of income, with or without other security, or (b) other assurances of repayment, including, but not limited to, a third-party guaranty or similar obligation.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 3539 are both chaptered and become effective January 1, 1983, both bills amend Section 6702 of the Financial Code, and this bill is chaptered after Assembly Bill 3539, that the amendments to Section 6702 proposed by both bills be given effect and incorporated in Section 6702 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill 3539 are both chaptered and become effective January

1, 1983, both amend Section 6702, and this bill is chaptered after Assembly Bill 3539, in which case Section 3 of this act shall not become operative.

CHAPTER 349

An act to amend Section 21800 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 21800 of the Vehicle Code is amended to read:

21800. (a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When two vehicles enter an intersection from different highways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on his right, except that the driver of a vehicle on a terminating highway shall yield the right-of-way to the driver of any vehicle on the intersecting continuing cross highway.

For the purposes of this subdivision, "terminating highway" means a highway which intersects, but does not continue beyond the intersection, with another highway which does continue in each direction beyond the intersection.

(c) When two vehicles enter an intersection, controlled from all directions by stop signs, from different highways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on his immediate right.

(d) This section shall not apply at an intersection controlled by an official traffic control signal or yield right-of-way sign or controlled by stop signs but not from all directions, or to vehicles approaching each other from opposite directions when the driver of one of the vehicles is intending to or is making a left turn.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 350

An act to amend Sections 1208 and 1209 of the Penal Code, relating to prisoners.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 1208 of the Penal Code is amended to read:

1208. (a) The provisions of this section, insofar as they relate to employment, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to employment, in that county is feasible. The provisions of this section, insofar as they relate to education, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of education conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to education, in that county is feasible. In any such ordinance the board shall prescribe whether the sheriff, the probation officer, the director of the county department of corrections, or the superintendent of a county industrial farm or industrial road camp in the county shall perform the functions of the work furlough administrator. The board may, in such ordinance, provide for the performance of any or all functions of the work furlough administrator by any one or more of such persons, acting separately or jointly as to any of such functions; and may, by a subsequent ordinance, revise such provisions within the authorization of this section. The board of supervisors may also terminate the operativeness of this section, either with respect to employment or education in the county if it finds by ordinance that because of changed circumstances, the operation of this section, either with respect to employment or education in that county is no longer feasible.

Notwithstanding any other provision of law, the board of supervisors may by ordinance designate a facility for confinement of prisoners classified for the work furlough program and designate the work furlough administrator as the custodian of the facility. The work furlough administrator may, with the approval of the board of supervisors, enter into contracts with appropriate public or nonprofit private agencies to provide a facility and services for the housing, sustenance, counseling, supervision, and related services for such inmates as are eligible for work furlough. No agency entering into such a contract may itself employ any person who is in the work furlough program. The sheriff or director of the county department of corrections, as the case may be, is authorized to transfer custody

of such prisoners to the work furlough administrator to be confined in such facility for the period during which they are in the work furlough program.

(b) When a person is convicted of a misdemeanor and sentenced to the county jail, or is imprisoned therein for nonpayment of a fine, for contempt, or as a condition of probation for any criminal offense, or committed under the terms of Section 6404 or 6406 of the Welfare and Institutions Code as a habit-forming drug addict, the work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular employment, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure employment for himself, unless the court at the time of sentencing or committing has ordered that such person not be granted work furloughs. The work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular educational program, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure education for himself, unless the court at the time of sentencing has ordered that such person not be granted work furloughs.

(c) If the work furlough administrator so directs that the prisoner be permitted to continue in his regular employment or educational program, the administrator shall arrange for a continuation of such employment or education, so far as possible without interruption. If the prisoner does not have regular employment or a regular educational program, and the administrator has authorized the prisoner to secure employment or education for himself, the prisoner may do so, and the administrator may assist him in doing so. Any employment or education so secured must be suitable for the prisoner. Such employment or educational program, if such educational program includes earnings by the prisoner, must be at a wage at least as high as the prevailing wage for similar work in the area where the work is performed and in accordance with the prevailing working conditions in such area. In no event may any such employment or educational program involving earnings by the prisoner be permitted where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed or educated.

(d) Whenever the prisoner is not employed or being educated and between the hours or periods of employment or education, he shall be confined in the facility designated by the board of supervisors for work furlough confinement unless the work furlough administrator directs otherwise. If the prisoner is injured during a period of employment or education, the work furlough administrator shall have the authority to release him from the facility for continued medical treatment by private physicians or at medical facilities at the expense of the employer, worker's compensation insurer, or the prisoner. Such release shall not be construed as assumption of liability

by the county or work furlough administrator for medical treatment obtained.

The work furlough administrator may release any prisoner classified for the work furlough program for a period not to exceed 72 hours for medical, dental, or psychiatric care, or for family emergencies or pressing business which would result in severe hardship if the release were not granted, or to attend such activities as the administrator deems may effectively promote the prisoner's successful return to the community, including, but not limited to, an attempt to secure housing, employment, entry into educational programs, or participation in community programs.

(e) The earnings of the prisoner may be collected by the work furlough administrator, and it shall be the duty of the prisoner's employer to transmit such wages to the administrator at the latter's request. Earnings levied upon pursuant to writ of execution or in other lawful manner shall not be transmitted to the administrator. If the administrator has requested transmittal of earnings prior to levy, such request shall have priority. In a case in which the functions of the administrator are performed by a sheriff, and such sheriff receives a writ of execution for the earnings of a prisoner subject to this section but has not yet requested transmittal of the prisoner's earnings pursuant to this section, he shall first levy on the earnings pursuant to the writ. When an employer or educator transmits such earnings to the administrator pursuant to this subdivision he shall have no liability to the prisoner for such earnings. From such earnings the administrator shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to such prisoner or if such prisoner is unable to pay such sum, such lesser sum as is reasonable, and, in an amount determined by the administrator, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the prisoner, pay, in whole or in part, the preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge and thereupon shall be paid to him.

(f) The prisoner shall be eligible for time credits pursuant to Sections 4018, 4019, and 4019.2.

(g) In the event the prisoner violates the conditions laid down for his conduct, custody, education, or employment, the work furlough administrator may order the balance of the prisoner's sentence to be spent in actual confinement.

(h) Willful failure of the prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement pursuant to this section is punishable as provided in Section 4532.

(i) As used in this section, "education" includes vocational and educational training and counseling; and psychological, drug abuse, alcoholic and other rehabilitative counseling; "educator" includes a

person or institution providing such training or counseling; and "employment" includes care of children, including the daytime care of children of the prisoner.

(j) This section shall be known and may be cited as the "Cobey Work Furlough Law."

SEC. 2. Section 1209 of the Penal Code is amended to read:

1209. Upon conviction of any criminal offense for which the court orders the confinement of a person in the county jail, or other suitable place of confinement, either as the final sentence or as a condition of any grant of probation, and allows the person so sentenced to continue in his or her regular employment by serving the sentence on weekends or similar periods during the week other than their regular workdays and by virtue of this schedule of serving the sentence the prisoner is ineligible for work furlough under Section 1208, the county may collect from the defendant according to the defendant's ability to pay so much of the costs of administration of this section as are allocable to such defendant. The amount of this fee shall not exceed the actual costs of such confinement and shall be collected upon completion of each weekly period of confinement until the entire sentence has been served, and the funds deposited in the county treasury pursuant to county ordinance.

The court, upon allowing sentences to be served on weekends or other nonemployment days, shall conduct a hearing to determine if the defendant has the ability to pay all or a part of the costs of administration without resulting in unnecessary economic hardship to the defendant and his or her dependents. At the hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the evidence against the defendant, and a written statement of the findings of the court. If the court determines that the defendant has the ability to pay all or part of the costs of administration without resulting in unnecessary economic hardship to the defendant and his or her dependents, the court shall advise the defendant of the provisions of this section and order him or her to pay all or part of the fee as required by the sheriff, probation officer, or Director of the County Department of Corrections, whichever the case may be. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

As used in this section, the term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, and shall include, but shall not be limited to, the following:

(a) The defendant's present financial position.

(b) The defendant's reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining

reasonably discernible future financial position.

(c) Likelihood that the defendant shall be able to obtain employment within the six-month period from the date of the hearing.

(d) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs.

Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part shall not be enforced by contempt. At any time during the pendency of the judgment, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of making the judgment.

CHAPTER 351

An act to amend Sections 25730, 25731, and 25732 of, and to amend and renumber Section 27933 of, the Government Code, relating to counties.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 25730 of the Government Code is amended to read:

25730. The board of supervisors of any county may construct, acquire, and develop works constructed after September 29, 1981, for the generation of hydroelectric power, and works constructed after the effective date of the amendments to this section enacted by the Statutes of 1982 for the generation of power produced by wind energy, and transmission lines for the conveyance thereof, and may operate and maintain the works, or contract for such operation or maintenance. The construction of the plant or plants and transmission lines may be financed by any method of financing county works.

SEC. 2. Section 25731 of the Government Code is amended to read:

25731. The hydroelectric or wind energy plant or plants and transmission lines constructed pursuant to Section 25730 may be leased for operation to, or the power generated may be sold to, a public utility or another public agency engaged in the distribution, use, or sale of electricity. The power generated may be used by the county for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the county to customers other than to a public utility or another public agency.

Any power sold to a public utility or another public agency engaged in the distribution or sale of electricity shall be marketed at the bus bar. For purposes of this section, "bus bar" means the high tension disconnect switch or switches of the hydroelectric or wind energy works.

SEC. 3. Section 25732 of the Government Code is amended to read:

25732. The power to construct, acquire, and develop works for the generation of hydroelectric power and to operate and maintain such works shall only apply to works constructed, acquired, developed, operated, and maintained after September 29, 1981. The power to construct, acquire, and develop works for the generation of wind energy power and to operate and maintain such works shall only apply to works constructed, acquired, developed, operated, and maintained after the effective date of the amendments to this section enacted by the Statutes of 1982.

SEC. 4. Section 27933 of the Government Code is amended and renumbered to read:

25733. The power to construct, acquire, develop, operate, and maintain works and facilities for the generation of hydroelectric or wind energy power shall not include, and nothing in this article shall be interpreted to allow, the acquisition of property already employed in the generation of hydroelectric or wind energy for public utility purposes, except by mutual agreement between the county and the owner and operator of that works or property.

CHAPTER 352

An act to amend Sections 39573 and 39577 of the Government Code, and to amend Sections 14902 and 14912 of the Health and Safety Code, relating to weed abatement.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 39573 of the Government Code is amended to read:

39573. Before the superintendent arrives, any property owner may remove the weeds, rubbish, refuse, and dirt at his own expense. Nevertheless, in any case in which an order to abate is issued, the legislative body by motion or resolution may further order that a special assessment and lien be imposed pursuant to Section 39577. In that case the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs.

SEC. 2. Section 39577 of the Government Code is amended to read:

39577. The cost of abatement in front of or upon each parcel of land and the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs, constitutes a special assessment against that parcel. After the assessment is made and confirmed, a lien attaches on the parcel upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the property is situated, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes as imposed by Section 39578 would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

SEC. 3. Section 14902 of the Health and Safety Code is amended to read:

14902. Before the arrival of the officer, board, or commission, or their representatives, any property owner may remove weeds at his or her own expense. Nevertheless, in any case in which an order to abate is issued, the board by resolution or motion may further order that a special assessment and lien be imposed pursuant to Section 14912. In that case the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical, and other related costs.

SEC. 4. Section 14912 of the Health and Safety Code is amended to read:

14912. The amount of the costs for abating the nuisance in front of or upon the various parcels of the land mentioned in the report as confirmed and the amount of the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs, shall constitute special assessments against the respective parcels of land, and are a lien on the property for the amount of the respective assessments. Such lien attaches upon recordation in the office of the county recorder of the county in which the property is situated of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has

been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

CHAPTER 353

An act to amend Sections 39270, 39271, and 39275 of the Education Code, relating to recreational facilities.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 39270 of the Education Code is amended to read:

39270. The Governing Board of the Los Angeles Unified School District, the City of Los Angeles, and the Board of Supervisors of the County of Los Angeles may form a joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the financing, construction, and operation of an all-purpose recreational stadium and center in the San Pedro area of Los Angeles County.

The governing body of the joint powers agency shall be composed of the following members:

(a) One member appointed by the Los Angeles County Board of Supervisors.

(b) One member appointed by the City of Los Angeles.

(c) One member appointed by the governing board of the Los Angeles Unified School District.

(d) Two members by a majority of the three members appointed pursuant to subdivisions (a), (b), and (c).

SEC. 2. Section 39271 of the Education Code is amended to read:

39271. The Board of Supervisors of Los Angeles County may establish a county service area pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, for the construction and operation of the recreational stadium and center, with the consent of both the City of Los Angeles and the governing board of Los Angeles Unified School District.

The boundaries of such a county service area shall be prescribed by the governing body of the joint powers agency.

SEC. 3. Section 39275 of the Education Code is amended to read:

39275. The Legislature finds and declares that because of a unique situation existing in the San Pedro area of the County of Los Angeles regarding the possible acquisition of useful federal surplus land, a general law, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable.

CHAPTER 354

An act to amend Sections 19402, 19420, 19423, 19429, 19430, and 19469 of, and to add Sections 19431 and 19432 to, the Education Code, relating to library districts.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 19402 of the Education Code is amended to read:

19402. Whenever the formation of a library district is desired, a petition which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of the county in which is located the largest proportionate value of the lands within the proposed district as shown by the last equalized county assessment roll. The petition shall specify whether the proposed library district shall be governed by a three-member board of library trustees or by a five-member board of library trustees. The board of supervisors to whom the petition is presented is designated in this chapter as the supervising board of supervisors.

SEC. 2. Section 19420 of the Education Code is amended to read:

19420. Within 30 days after the filing with the Secretary of State of the resolution declaring the organization of the district, the supervising board of supervisors shall appoint the required number of library trustees from the district at large.

SEC. 3. Section 19423 of the Education Code is amended to read:

19423. The first board of library trustees appointed or elected in a district shall at their first meeting so classify themselves by lot that their terms shall expire:

(a) For three-member boards, one on the last Friday in November of the first odd-numbered calendar year next succeeding his or her appointment or election, and two on the last Friday in November of the second succeeding odd-numbered calendar year.

(b) For five-members boards, two on the last Friday in November of the first odd-numbered calendar year next succeeding his or her appointment or election, and three on the last Friday in November of the second succeeding odd-numbered calendar year.

SEC. 4. Section 19429 of the Education Code is amended to read:

19429. Special meetings may be called at any time, as follows:

(a) A special meeting of a three-member board of library trustees may be called by two trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

(b) A special meeting of a five-member board of library trustees may be called by three trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

SEC. 5. Section 19430 of the Education Code is amended to read:

19430. (a) For three-member boards, two members constitute a quorum for the transaction of business.

(b) For five-member boards, three members constitute a quorum for the transaction of business.

SEC. 6. Section 19431 is added to the Education Code, to read:

19431. A proposal to increase the number of seats on the board of library trustees from three to five may be initiated in either of the following alternative ways:

(a) By a petition signed by registered voters residing within the library district equal in number to at least 5 percent of the total number of votes cast in the library district at the last preceding general state election at which a Governor was elected, and filed with the supervising board of supervisors of the library district.

(b) By a resolution adopted by the board of trustees and filed with the supervising board of supervisors.

SEC. 7. Section 19432 is added to the Education Code, to read:

19432. (a) The supervising board of supervisors, at its option, may conduct a public hearing on a petition or resolution filed pursuant to Section 19431. Notice of the hearing shall be published pursuant to Sections 6060 and 6061. At the hearing, any interested person shall be given an opportunity to present his or her views on the proposal. At the conclusion of the hearing, the supervising board of supervisors may increase the board of library trustees to a five member board.

(b) If the board of library trustees is increased from three to five members, the supervising board of supervisors shall appoint the two additional trustees from the district at large, and the trustees shall classify themselves by lot so that their terms shall expire as provided in subdivision (b) of Section 19423.

SEC. 8. Section 19469 of the Education Code is amended to read:

19469. The board of library trustees shall designate the hours during which the library shall be open for the use of the public.

CHAPTER 355

An act to amend Section 1155 of the Civil Code, and to amend Section 1443 of the Probate Code, relating to insured financial institutions.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 1155 of the Civil Code is amended to read:

1155. In this article, unless the context otherwise requires:

(a) An "adult" is a person who has attained the age of 18 years.

(b) A "bank" is any bank authorized to do business in this state.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the superior court.

(e) "The custodial property" includes:

(1) All securities, money, life or endowment insurance policies, and annuity contracts under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article.

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life or endowment insurance policies, and annuity contracts and income.

(f) A "custodian" is a person so designated in a manner prescribed in this article. The term includes a successor custodian.

(g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state. An "insured financial institution" is one, where deposits, including a savings, share, certificate or deposit account, in which are, in whole or in part, insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, by the National Credit Union Share Insurance Fund or, in the case of a state-licensed credit union not participating in the National Credit Union Share Insurance Fund, by participation in the California Credit Union Share Guaranty Corporation or as provided in Section 14858 of the Financial Code.

(h) A "guardian" of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking

to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(k) "Life or endowment insurance policies and annuity contracts," means only life or endowment insurance policies and annuity contracts on the life of a minor or a member of the minor's family as defined in subdivision (*l*) of this section.

(*l*) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A "minor" is a person who has not attained the age of 18 years.

(n) A "savings and loan association" includes a federal savings and loan association, or a state-chartered savings and loan association or building and loan association doing business in this state; an "insured savings and loan association" is a savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act; and an "account in an insured savings and loan association" has the same meaning as in Section 1406 of the Probate Code.

(o) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, account in an insured savings and loan association, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(p) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(q) A "trust company" means a trust company as defined by Sections 107 and 109 of the Financial Code.

SEC. 1.5. Section 1155 of the Civil Code is amended to read:

1155. In this article, unless the context otherwise requires:

(a) An "adult" is a person who has attained the age of 18 years.

(b) A "bank" is any bank authorized to do business in this state.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also

includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the superior court.

(e) "The custodial property" includes:

(1) All securities, money, life or endowment insurance policies, annuity contracts, real estate, tangible personal property, or any other type of property under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article.

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life or endowment insurance policies, annuity contracts, real estate, tangible personal property, other property, or income.

(f) A "custodian" is a person so designated in a manner prescribed in this article. The term includes a successor custodian.

(g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state. An "insured financial institution" is one, where deposits, including a savings, share, certificate or deposit account, in which are, in whole or in part, insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, by the National Credit Union Share Insurance Fund or, in the case of a state-licensed credit union not participating in the National Credit Union Share Insurance Fund, by participation in the California Credit Union Share Guaranty Corporation or as provided in Section 14858 of the Financial Code.

(h) A "guardian" of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(k) "Life or endowment insurance policies and annuity contracts," means only life or endowment insurance policies and annuity contracts on the life of a minor or a member of the minor's family as defined in subdivision (*l*) of this section.

(*l*) A "member" of a "minor's family" means any of the minor's

parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A "minor" is a person who has not attained the age of 18 years.

(n) A "savings and loan association" includes a federal savings and loan association, or a state-chartered savings and loan association or building and loan association doing business in this state; an "insured savings and loan association" is a savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act; and an "account in an insured savings and loan association" has the same meaning as in Section 1406 of the Probate Code.

(o) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, interest in a partnership or limited partnership, account in an insured savings and loan association, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(p) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(q) A "trust company" means a trust company as defined by Sections 107 and 109 of the Financial Code.

SEC. 2. Section 1443 of the Probate Code is amended to read:

1443. "Shares of an insured credit union" means shares issued by a credit union, either federally chartered or state licensed, which are insured under Title II of the Federal Credit Union Act or participation in the California Credit Union Share Guaranty Corporation or such other form of insurance or guaranty as approved pursuant to Section 14858 of the Financial Code.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2393 are both chaptered and become effective January 1, 1983, both bills amend Section 1155 of the Civil Code, and this bill is chaptered after Assembly Bill 2393, that the amendments to Section 1155 proposed by both bills be given effect and incorporated in Section 1155 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 2393 are both chaptered and become effective January 1, 1983, both amend Section 1155, and this bill is chaptered after

Assembly Bill 2393, in which case Section 1 of this act shall not become operative.

CHAPTER 356

An act to amend Section 27202 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 27202 of the Vehicle Code is amended to read:

27202. For the purposes of Section 27200, the following noise limits shall apply to any motorcycle, other than a motor-driven cycle, manufactured:

(1) After 1969, and before 1973	88 dbA
(2) After 1972, and before 1975	86 dbA
(3) After 1974, and before 1986	83 dbA
(4) After 1985	80 dbA

CHAPTER 357

An act to amend Section 13885 of the Health and Safety Code, relating to fire protection districts.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 13885 of the Health and Safety Code is amended to read:

13885. All contracts for the construction or completion of any building, structure, or improvement, when the expenditure required for the work exceeds ten thousand dollars ($10,000), shall be contracted for and let to the lowest responsible bidder after notice. The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the district, or if there is none, it shall be posted in at least three public places in the district that

have been designated by the district board as the places for posting such notice. The notice shall distinctly state the work to be done.

In its discretion, the district board may reject any bids presented and readvertise. If two or more bids are the same and the lowest, the district board may accept the one it chooses.

The district board may, subject to the provisions of Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code, require the posting of such bonds as it deems desirable as a condition to the filing of a bid or the letting of a contract.

In case of an emergency, the district board may adopt a resolution by a two-thirds vote of all the members of the district board declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health or property. The district board may expend any sum required in the emergency without submitting such expenditure to bid.

Cost records of the work shall be kept in the manner provided in Sections 4000 to 4007, inclusive, of the Government Code.

CHAPTER 358

An act to add Section 25539.6 to the Government Code, relating to leasing county property.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 25539.6 is added to the Government Code, to read:

25539.6. (a) Notwithstanding any other provision of law, the board of supervisors of a county of the 16th class may lease, for a term of one year or more and without competitive bidding, county-owned residential dwellings having an estimated monthly rental of not exceeding seven hundred dollars ($700), which the board of supervisors determines not to be necessary for public use. If a lease is entered into without competitive bidding, the actual monthly rental in the executed lease shall not exceed eight hundred dollars ($800), and the lease shall be renewable by the lessee for at least one additional term.

(b) The Legislature finds that unique and special circumstances exist in Santa Barbara County for which a general statute cannot be made applicable. In Santa Barbara County, dwellings are located on county parcels which are used to provide public services.

The Legislature further finds and declares that the dwellings were once used for employee housing. The need for employee housing in such dwellings has ceased, while the parcels on which they are

located are still needed for public service. Therefore, the Legislature finds and declares that conditions are such that a lot split or subdivision of the dwelling from the parcels is impractical.

CHAPTER 359

An act to add Sections 4601.5 and 4608 to the Civil Code, and to amend Section 548 of, and to add Section 547.5 to, the Code of Civil Procedure, relating to domestic violence.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 4601.5 is added to the Civil Code, to read:

4601.5. In making an award of visitation pursuant to Section 4601, if an order has been directed to a parent pursuant to paragraph (2), (3), or (6) of subdivision (a) of Section 4359 during the pendency of the proceeding or pursuant to Section 4516, the court shall consider whether the best interests of the child require that any visitation granted to that parent shall be limited to situations in which a third person, specified by the court, is present. The court shall include a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order in its deliberations.

A parent may submit the name of a person that he or she deems suitable to be present during visitation to the court.

SEC. 2. Section 4608 is added to the Civil Code, to read:

4608. In making a determination of the best interest of the child in any proceeding under this title, the court's determination shall include, but shall not be limited to, consideration of the health, safety, and welfare of the child.

SEC. 3. Section 547.5 is added to the Code of Civil Procedure, to read:

547.5. In making an award of temporary custody of a child pursuant to this chapter, if an order set forth in paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code has been directed to a parent of the child, the court shall consider whether the best interests of the child require that any visitation granted to that parent with respect to the child shall be limited to situations in which a third person, specified by the court, is present. The court shall include a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order in its deliberations.

A parent may submit the name of a person that he or she deems suitable to be present during visitation to the court.

The determination of the best interests of the child pursuant to this

section shall include the considerations specified in Section 4608 of the Civil Code.

SEC. 4. Section 548 of the Code of Civil Procedure is amended to read:

548. Any restraining order granted after notice and a hearing pursuant to this chapter shall remain in effect, in the discretion of the court, not to exceed one year, unless otherwise terminated or extended by further order of the court either on written stipulation filed with the court or on the motion of any party.

CHAPTER 360

An act to amend Section 960.6 of the Streets and Highways Code, relating to county highways.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 960.6 of the Streets and Highways Code is amended to read:

960.6. The board of supervisors may, by ordinance or resolution, delegate to a county official, subject to rules or regulations as the board may impose, the authority to lease any real property acquired by the county for highway purposes for a renewable term not exceeding three years. Proceeds from the lease of the property shall be paid into the county treasury to the credit of any fund designated by the board of supervisors which is available for highway purposes.

At least five working days prior to entering into a lease under this section, a notice of intention to enter into a lease shall be posted in a public place.

CHAPTER 361

An act to amend Section 4894 of the Health and Safety Code, relating to sewer maintenance districts.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 4894 of the Health and Safety Code is amended to read:

4894. Pursuant to a resolution adopted by its board of supervisors, a county may lend any of its available funds to a county sewer

maintenance district located wholly within the county for use by the district in emergency situations for the construction, reconstruction, and repair of sewer systems, for replacement of obsolete equipment, or to defray unusual maintenance costs within the district. Any such loan may be restricted for use in a temporary zone formed under the provisions of Section 4894.1 in a district. The loan shall not exceed 100 percent of the total revenues of the district or zone for the year in which the loan is made.

The board of supervisors in the resolution shall specify the date and manner in which the funds shall be repaid. The resolution may provide for the payment of interest on the loan and the loan shall be repaid at the times and in the manner specified in the resolution which time shall not in any event exceed 10 years.

Funds so loaned shall be deemed to have been appropriated by the district or temporary zone in a district for the purposes for which the loan was made. Any area of a district, or of a temporary zone in a district, which is included in a city by annexation or incorporation after a loan has been made shall continue to be taxed for the repayment of its proportionate part of the unpaid balance of the loan.

If a zone is formed to be responsible for the loan, the board of supervisors shall, in the first fiscal year in which a special tax may be levied in said zone, and in each succeeding year of the duration of the zone, levy a special tax upon the taxable property in the zone for the purpose of repaying the amount lent to the district by the county. When the loan has been repaid, the zone shall terminate.

The board may also borrow funds from another sewer maintenance district, and the board may lend available district funds to another sewer maintenance district, subject to the same terms and conditions as apply to loans of county funds.

CHAPTER 362

An act to add Section 4114 to the Government Code, relating to counties.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 4114 is added to the Government Code, to read:

4114. In counties with a population of 6,000,000 or more, the county board of supervisors, when it is the awarding authority, may delegate its functions under Sections 4107 and 4110 to a hearing officer designated by the board.

The hearing officer shall make a written recommendation to the board of supervisors. The board of supervisors may adopt the

recommendation without further notice or hearing, or may set the matter for a de novo hearing before the board.

CHAPTER 363

An act to amend Section 13841 of the Health and Safety Code, relating to fire protection districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 13841 of the Health and Safety Code is amended to read:

13841. Within 60 days after their first election or appointment and after each general district election or unopposed election, and whenever vacancies in any office may occur and are filled, the district board shall meet and organize as a board, electing a president from their number, and a secretary, after which they may transact business. Regular meetings shall be held not less than once every three months unless the district has entered into a joint exercise of powers agreement for the provision of district services by another public agency, in which case the district shall not be required to hold regular meetings. Regular and special meetings shall be called and conducted as prescribed by Sections 54953, 54954 and 54956 of the Government Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Even though a fire protection district may have entered into a joint powers agreement with another public agency whereby the public agency agrees to provide the services normally provided by the fire protection district, the board of directors of the fire protection district is still required to hold regular meetings. In order to eliminate the costs of conducting those regular meetings as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 364

An act to repeal Section 35033.5 of the Government Code, relating to municipal annexations.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 35033.5 of the Government Code is repealed.

CHAPTER 365

An act to amend Section 13371 of, and to add Article 2 (commencing with Section 13391) to Chapter 7.5 of Division 6 of, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. Section 13371 of the Public Utilities Code is amended to read:

13371. A district may borrow money and incur indebtedness for the purposes of this chapter by the issuance of bonds, notes or other evidences of indebtedness by a majority vote of its board of directors and without the necessity of calling and holding an election in the district. Such evidences of indebtedness shall constitute general obligations of the district or shall be payable solely from the revenues of the district as the board may determine in the resolution authorizing their issuance; provided, that if the board determines that the evidences of indebtedness shall constitute general obligations of the district, their issuance shall be approved by a four-fifths vote of the board. Such indebtedness may be incurred for any of the following purposes:

(a) The purchase, processing, storage, and disposal of fuel to be used for the generation and transmission of electricity, of materials to be used in the manufacture of such fuel, and of the products of such fuel, the purchase of real property and manufacturing and processing facilities from which such fuel or materials may be obtained, or interests therein.

(b) The planning, design, engineering, and licensing of facilities for the generation or transmission of electricity, and the preparation of sites and the purchase of equipment for such facilities.

(c) The replacement of works of the district that have been damaged or demolished by reason of fire, flood, earthquake, sabotage, or acts of God or the public enemy.

(d) Any expenses or charges incurred in connecton with the foregoing purposes, and to reimburse the district for expenditures incurred for any of such purposes.

The indebtedness incurred under this chapter shall be evidenced

by bonds, notes or other evidences of indebtedness maturing in not to exceed seven years from their date, shall not result in interest costs exceeding such limits as may be fixed by the board, and may be sold either by public or by private sale. All other terms and conditions of such evidences of indebtedness shall be fixed by the board. The district may arrange for bank credit for the purposes of this section or to provide an additional source of repayment for indebtedness incurred under this chapter. The maximum principal amount of all indebtedness outstanding under this article, including the amounts drawn on available bank lines of credit, shall not at any one time exceed fifty million dollars ($50,000,000) or 25 percent of the district's annual gross revenues during the preceding calendar year, whichever is greater.

The authority contained in this chapter shall be in addition to the authority contained in Chapter 6 (commencing with Section 12701) and Chapter 7 (commencing with Section 13201) of this division, and any indebtedness incurred pursuant to this chapter shall not be included in ascertaining the aggregate indebtedness permitted by Section 12842.

SEC. 2. Article 2 (commencing with Section 13391) is added to Chapter 7.5 of Division 6 of the Public Utilities Code, to read:

Article 2. Borrowing to Purchase Electricity

13391. A district may borrow money and incur indebtedness for the purchasing of electricity; provided, that the maximum principal amount of indebtedness outstanding under this article shall not at any one time exceed twenty-five million dollars ($25,000,000).

13392. All provisions of this chapter not inconsistent with this article and not by their terms made inapplicable thereto shall apply to all evidences of indebtedness issued under this article.

CHAPTER 366

An act relating to public education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1982 Filed with Secretary of State June 30, 1982.]

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

SECTION 1. (a) The governing board of the Santa Monica-Malibu Unified School District may by resolution, have placed on the ballot of the November 2, 1982, Regular Election, the question of whether a new separate governing board for the community college district shall be established, effective April 12, 1983, in the manner provided for by subdivision (b) of this section,

which shall be an integral part of the ballot measure. If a majority of all votes cast are cast in favor of the question, the question carries, and the provisions of subdivision (b) of this section shall apply:

(b) Except as otherwise provided in this act, a new separate community college district governing board shall be elected, organized, and otherwise governed in accordance with the statutory law. The governing board of the unified school district shall continue in existence and be subject to the provisions of the city charter pertaining to its organization and composition as heretofore provided. Each member of the governing board whose term continues past the third Tuesday in April 1983, shall elect irrevocably, on or before December 31, 1982, at a public meeting of the board, on which of the boards the member shall serve. The community college district governing board so created shall be composed of the same number of members and elected at the same time as the governing board of the unified school district.

(c) If an individual serving on the governing board of the unified school district elects to serve on the new separate community college district governing board, that election shall be deemed to have created a vacancy in that individual's membership on the governing board of the unified school district, effective on the second Tuesday in April 1983, except in any instance where the term would otherwise expire on that date. The vacancy shall be filled in the manner prescribed by the city charter of the city in which the unified district is located, in whole or in part.

(d) If an individual serving on the governing board whose term expires in April of 1983, elects to serve on the new separate community college district governing board, then the term of office on the community college board shall be deemed to commence on the second Tuesday in April 1983, and if an individual serving on the governing board whose term expires in April of 1985, elects to serve on the new community college district governing board, then the term of office on the community college board shall be deemed to expire on the second Tuesday in April 1985.

(e) If an individual serving on the board elects to continue to serve as a member of the governing board of the unified school district, that person shall nevertheless serve also on the community college district governing board, but only until the successor on the community college board is elected at the election for members of the community college district governing board, provided for herein and has assumed office.

On the second Tuesday in April 1983, an election shall be held in the community college district to elect members to the community college district governing board to fill the positions of the governing board members whose terms pursuant to the city charter are scheduled to expire in April of 1983, and other governing board members, if any, whose terms pursuant to the city charter are scheduled to expire in April of 1985, and who have elected, pursuant to this section to serve as members of the governing board of the

unified school district only, thus leaving vacancies in community college governing board positions.

(f) If the term of office of an individual who elects to serve on the governing board of the unified school district expires in April 1983, in accordance with the terms of the city charter mentioned in subdivision (b), then the term of office on the community college district board shall be deemed to commence at that time. The member's successor on the community college district board, elected at the April 1983 election, shall be elected to serve for a term of four years.

(g) If the term of office of an individual electing to serve on the governing board of the unified school district expires in April 1985, in accordance with the terms of the city charter mentioned in subdivision (b), then the terms of office in the community college district board shall be deemed to expire at that time, and the member's election to continue to serve on the governing board of the unified school district shall be deemed to have created a vacancy in the member's membership on the community college district board commencing on the second Tuesday in April 1983. The member's successor to the community college district board, elected at the April 1983 election as provided herein, shall serve the remainder of the unexpired term ending on the second Tuesday in April 1985.

(h) It is the intent of the Legislature that the terms of office of the members of the new separate community college district governing board be staggered as regards expirations so that some thereof shall expire in April of each odd-numbered year. If any question should arise in April 1983 concerning whether a member is to serve for a four-year term or for the remaining two years of a term, the matter shall be resolved by assigning to the member or members receiving the greatest number of votes the four-year terms. The county superintendent of schools shall make any determinations and assignments necessary for these purposes.

(i) Following the first election of members to the newly created separate community college district board, all subsequent regular elections for members of the community college district governing board may be held on the same date upon which the election for members of the governing board of the unified school district is held pursuant to city charter and Article 3 (commencing with Section 5340) of Chapter 3 of Part 4 of the Education Code.

(j) The governing board of the community college district shall cause a personnel commission to be established in the manner prescribed by Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of the Education Code. The appointment of commission members shall be pursuant to Section 88069 of the Education Code, with the initial appointment to be made by the board of governors. The personnel commission of the community college district shall adopt, initially, the rules and regulation of the personnel commission which had served both the unified and community college districts.

SEC. 2. Due to the unique circumstances concerning the

common governing board of the Santa Monica-Malibu Unified School District and the Santa Monica Community College District, the Legislature finds and declares that a general act cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because existing law provides for the reimbursement of the local agency in order to pay for the program or level of service mandated by this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the Santa Monica Community College District governing board to consolidate the election of board members with the election to be held in April of 1983, and thereby save the expense of a separate election, it is necessary that this act take effect immediately.

CHAPTER 367

An act to amend the heading of Article 6a (commencing with Section 12850) of Chapter 6 of Division 6 of, and to amend Section 12851 of, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor June 30, 1982. Filed with Secretary of State June 30, 1982.]

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

SECTION 1. The heading of Article 6a (commencing with Section 12850) of Chapter 6 of Division 6 of the Public Utilities Code is amended to read:

Article 6a. Electric, Water, Communications, or Sewage Disposal System Improvements

SEC. 2. Section 12851 of the Public Utilities Code is amended to read:

12851. A district may, from time to time, issue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), as it now reads or as hereafter amended, for the purpose of financing the construction, reconstruction, replacement, acquisition, or improvement of any facility or facilities

necessary or convenient for the generation, transmission, or distribution of electricity; the storage, transmission, or distribution of water; the furnishing of communications services; or the disposal of sewage; or incidental to, or in connection with, the operation of the electric, water, communications, or sewage disposal system or facilities of the district, or for purposes of financing programs for the conservation of electricity, which shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code. The authority hereby granted to the districts is in addition to all powers granted local agencies under the Revenue Bond Law of 1941, and Section 54310 of the Government Code, insofar as it is inconsistent with that authority, shall not apply.

CHAPTER 368

An act to add and repeal Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3 of the Unemployment Insurance Code, relating to displaced workers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Chapter 2.9 (commencing with Section 9970) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read:

CHAPTER 2.9. REGIONAL EMPLOYMENT ASSESSMENT, JOB SEARCH ASSISTANCE, AND PLACEMENT SERVICES FOR DISPLACED WORKERS

9970. This chapter shall be known and may be cited as the Regional Employment Assessment, Job Search Assistance, and Placement Services for Displaced Workers Act of 1982.

9971. In enacting this chapter, the Legislature declares that it is the policy of the State of California to provide workers displaced due to plant closures, layoffs, or reduced economic activity or labor market demand related to their field of employment with assessment, job search assistance, placement, and other support services in order to avoid the adverse effects of job loss and long-term unemployment. The Legislature hereby declares that these services will serve the state and national interests by providing displaced workers with the opportunities necessary to prepare them for employment in demand occupations and to facilitate rapid adjustments to meet changing economic and labor market needs.

9971.5. As used in this chapter, "displaced workers" means all of

the following:

(a) Those workers unemployed due to plant closures or substantial plant layoffs.

(b) Workers eligible for benefits under California's unemployment insurance-retraining programs established pursuant to Article 1.5 (commencing with Section 1266) and Article 1.8 (commencing with Section 1274) of Chapter 5 of Part 1 of Division 1.

(c) Workers eligible for retraining under the Federal Trade Adjustment Assistance Act.

(d) Workers eligible for retraining under the Redwood Employee Protection Program.

(e) Employees whose hours have been permanently reduced under a work-sharing unemployment insurance plan pursuant to Section 1279.5.

(f) Unemployed workers otherwise affected by economic or industrial changes which have resulted in loss or reduction of their employment opportunities, as determined by the director.

9972. Regional employment, assessment, job search assistance, and placement programs and services authorized pursuant to this chapter include all of the following:

(a) Services necessary to assist displaced workers in identifying and obtaining reemployment, including placement in jobs to which their preexisting skills are transferable. These services include, but need not be limited to, all of the following:

(1) Analysis and assessment of skills required for occupations in high demand in the local or surrounding labor markets and in which there is not a surplus of qualified applicants.

(2) Job search assistance, including the following:

(A) Provision of labor market information.

(B) Training in skills necessary to identify job openings and perform effective job seeking.

(C) Teaching of self-help techniques included in securing and retaining new employment.

(D) Identifying methods for determining occupations to which preexisting skills can be transferred.

(b) Counseling and support services needed by displaced workers subsequent to a period of reduced employment or job loss, including, but not limited to, all of the following:

(1) Counseling and referral concerning available retraining programs.

(2) Information and referral regarding available financial services, including access to credit, home mortgage assistance, and assistance in securing transportation to employment opportunities in surrounding labor market demand areas.

(3) Referral to supportive services for displaced workers and their families which are necessary to deal with the adverse consequences of employment loss or reduction.

(c) Other activities, including those aimed at job development,

which are related to the activities of collaborative economic adjustment committees, composed of all of the following:

(1) Representatives of employers and employees affected by reduction or loss in employment.

(2) Other employers and associations of employers, including businesses, industry, and commercial establishments.

(3) Additional representatives of affected workers and other concerned labor groups.

(4) Representatives of local and state government which directly assist in the immediate transitioning of displaced workers to gainful employment in demand occupations.

9973. (a) Contingent upon funding provided in the Budget Act of 1982, the Employment Development Department, in conjunction with the Department of Education, the Chancellor's Office of the California Community Colleges, the Department of Economic and Business Development, and the Department of Industrial Relations, shall submit to the Legislature within 90 days of the effective date of this chapter, a plan for the administration and implementation of this chapter. The information shall be submitted to the fiscal and policy committees of both houses of the Legislature.

(b) The Employment Development Department, in conjunction with the Department of Education, the Chancellor's Office of the California Community Colleges, the Department of Economic and Business Development, and the Department of Industrial Relations, shall annually, beginning in 1983, on or before the first day of November, submit to the Legislature an evaluation of the regional employment assessment, job search assistance, and placement services for displaced workers established pursuant to this chapter. The evaluation of the effectiveness of this chapter shall rely on readily available data and shall measure the economic and social impact reasonably attributable to this chapter.

(c) The annual evaluations required pursuant to subdivision (b) shall include reports on the programs and services provided and on the progress in implementing the provisions of this chapter and shall include recommendations to improve program implementation, including recommended statutory and regulatory changes at the state or federal levels.

9974. This chapter shall take effect only if the Budget Act of 1982 contains a specific appropriation to carry out this chapter and shall continue in effect only if each successive Budget Act contains a specific appropriation to carry out this chapter. Contingent upon this funding, this chapter shall remain in effect only until January 1, 1988, and as of this date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends this date.

SEC. 2. Section 9971.5 of the Unemployment Insurance Code, as added by Section 1 of this act, is amended to read:

9971.5. As used in this chapter, "displaced workers" means displaced workers as defined in Section 9952.

SEC. 3. It is the intent of the Legislature that if this bill and

Senate Bill 1109 are both chaptered and become effective on or before January 1, 1983, and Senate Bill 1109 defines "displaced worker," that this bill incorporate that definition in Senate Bill 1109 by reference. Therefore, Section 2 of this bill shall become operative only if Senate Bill 1109 is chaptered, and shall become operative at the same time as Senate Bill 1109 becomes operative or at the same time that this bill becomes operative, whichever is later.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the immediate reemployment of displaced workers and prevent the adverse consequences to workers, families, and communities, and the costs to the state of long-term unemployment, it is necessary that this act take effect immediately.

CHAPTER 369

An act to amend Section 22792 of the Government Code, relating to health care plans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 22792 of the Government Code is amended to read:

22792. The board may, without compliance with any provisions of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans. Every such contract shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

Commencing in the year 1976 the contract term for contracts entered into or approved by the board shall be for such period as will result in expiration of such contract terms on July 31. However, the board may extend a contract for a period not exceeding six months, subject to existing terms and conditions or any new terms and conditions which are agreed upon.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that existing contracts for health benefit plans may be administered for the benefit of enrolled public employees and family members, it is necessary for this act to take effect immediately.

CHAPTER 370

An act to amend Sections 64691 and 64713 of, to add Sections 64691.1, 64692, and 64714 to, and to repeal and add Sections 64691.7, 64712, and 64715 to, the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1 Section 64691 of the Food and Agricultural Code is amended to read:

64691. In order to carry out the programs and administer the activities which are conducted pursuant to this chapter, except as specified in Section 64691.5, a fee of one dollar ($1) per head on cattle and calves, except cattle or calves shipped into a California registered feedlot from out of state, shall be charged and collected from the seller or from the seller's account and paid to the director as specified in Section 64691.7 by each operator of any stockyard, livestock auction market, slaughterhouse, packing plant, feedlot, or seller's agent, who shall deduct that amount from the proceeds of sale or from other moneys owed to the seller. The fee shall be charged on all cattle and calves, except the following:

(a) Hides, skins, or reduction animals.

(b) Any cattle that are transported for purposes other than for sale of slaughter and without a change of ownership.

(c) Any animal which is less than three hundred pounds.

(d) Any animal sold for milk or calf production.

(e) Any cattle custom slaughtered exclusively for the owner, members of the owner's household, or the owner's nonpaying guests or employees.

The fees shall not be charged or collected more than once from each owner upon the same animal.

SEC. 2. Section 64691.1 is added to the Food and Agricultural Code, to read:

64691.1. Each person who is required to collect the fees which are required in Section 64691 shall maintain a complete and accurate record of all transactions subject to fees under this chapter. These records shall contain such information as required by the director relating to the collection of fees, shall be preserved for a period of two years, and shall be offered and submitted for inspection and audit at any reasonable time upon written demand by the director or his or her duly authorized agent.

All information obtained by the director or his or her duly authorized agent from any inspection or audit of records shall be confidential and shall not be disclosed except when required in a

judicial proceeding.

SEC. 3. Section 64691.7 of the Food and Agricultural Code is repealed.

SEC. 4. Section 64691.7 is added to the Food and Agricultural Code, to read:

64691.7. The fees required under Section 64691 shall be due and payable as follows:

(a) The fees for cattle slaughtered at a slaughterhouse which are received from a registered feedlot shall be remitted to the director by the slaughterer on forms provided by the director.

(b) The fees for cattle shipped from a registered feedlot in this state to a location outside this state for slaughter shall be paid to the brand inspector at the time of inspection prior to shipment from this state.

(c) The fees for all cattle not otherwise provided for in subdivisions (a) and (b) of this section shall be collected at the same time that brand inspection fees are collected.

SEC. 5. Section 64692 is added to the Food and Agricultural Code, to read:

64692. The fee which is required by Section 64691 shall be paid for each head of cattle which is slaughtered in the state unless it is specifically excepted by Section 64691. If the fee is not otherwise deducted from the seller as provided in Section 64691, it shall be paid by the purchaser or slaughterer and is due and payable in the manner provided in Section 64691.7.

SEC. 6. Section 64712 of the Food and Agricultural Code is repealed.

SEC. 7. Section 64712 is added to the Food and Agricultural Code, to read:

64712. For the purposes of this article, the term "beef" includes boxed beef and boned beef in fresh or frozen form and all forms of carcass beef or portions thereof not included under boxed beef and boned beef.

SEC. 8. Section 64713 of the Food and Agricultural Code is amended to read:

64713. In order to carry out the programs and administer the activities which are conducted pursuant to this chapter, an assessment of $0.0015 per pound based on chilled carcass weight or $0.00175 per pound on boxed beef or $0.00242 per pound on boned beef shall be collected from every out-of-state beef processor. However, persons subject to this assessment shall not be required to pay an amount in excess of the equivalent of one dollar ($1) per head. Any person who pays an assessment in excess of the equivalent of one dollar ($1) per head shall be entitled to a refund of the excess portion of the payment as long as the person demonstrates to the satisfaction of the director or his or her agent that a refund is warranted. The assessment provided in this section is intended to be the equivalent of the fee provided in Section 64691.

SEC. 9. Section 64714 is added to the Food and Agricultural Code,

to read:

64714. Payment of assessments provided for under this article shall be made directly to the department, together with copies of each sales transaction of beef shipped into California. Collections under this section shall be made by the department under regulations promulgated by the director.

SEC. 10. Section 64715 of the Food and Agricultural Code is repealed.

SEC. 11. Section 64717.5 is added to the Food and Agricultural Code, to read:

64717.5. Each registrant shall maintain a complete and accurate record of all transactions subject to assessments under this chapter. These records shall contain such information as required by the director relating to the collection of assessments, shall be preserved by the registrant for a period of two years, and shall be offered and submitted for inspection and audit at any reasonable time upon written demand by the director or his or her duly authorized agent.

All information obtained by the director or his or her duly authorized agent from any inspection or audit of records shall be confidential and shall not be disclosed except when required in a judicial proceeding.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 13. This is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the need to administer the program of California Beef Council assessments in a manner consistent with related federal requirements, it is necessary that this act take effect immediately.

CHAPTER 371

An act to amend Section 1810.4 of the Civil Code, relating to retail installment accounts.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 1810.4. of the Civil Code is amended to read:

1810.4. The finance charge shall include all charges incident to investigating and making the retail installment account. No fee, expense, delinquency, collection or other charge whatsoever shall be taken, received, reserved or contracted by the seller or holder of a retail installment account except as provided in this section. A seller may, however, in an agreement which is signed by the buyer and of which a copy is given or furnished to the buyer provide for the payment of attorney's fees and costs in conformity with Article 11 (commencing with Section 1811.1). When credit cards are issued in connection with a retail installment account, the seller, either in the agreement or after giving the notice required by subdivision (d) of Section 1810.3, may require the payment of an annual fee of not more than fifteen dollars ($15) for membership in the credit card plan, which fee shall not be deemed a finance charge or interest for any purpose of the law.

CHAPTER 372

An act to amend Section 18212.1 of the Financial Code, relating to industrial loan companies.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 18212.1 of the Financial Code is amended to read:

18212.1. As an alternative to the charges authorized by Section 18212 a licensee may contract for and receive charges at a rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Section 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

In order to facilitate the evaluation of the adequacy of the discount rate index and differential by the Commissioner of Corporations, this section shall remain in effect until January 1, 1985, and as of that date is repealed.

CHAPTER 373

An act to amend Section 14203 of the Elections Code, relating to elections.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 14203 of the Elections Code is amended to read:

14203. (a) The precinct board shall post in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the clerk.

In those counties which are required under the provisions of the Voting Rights Act of 1965 as extended by Public Law 94-73 to furnish ballots in other than the English language, the posting of the facsimile ballot in that particular language shall not be required.

(b) Subdivision (a) of this section shall remain in effect until such time as the Secretary of State shall make the determinations and findings required by this section. In counties where the Secretary of State has determined that it is appropriate, each precinct board shall post in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. If the Secretary of State determines that it is appropriate to post the election materials in Spanish in only certain precincts in the county, the material shall be posted in the polling places situated in those precincts. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the Secretary of State.

In determining whether it is appropriate to post the election materials in Spanish or other languages, the Secretary of State shall determine the number of residents of voting age in each county and precinct who are members of a single language minority, and who lack sufficient skills in English to vote without assistance. If the number of these residents equals 3 percent or more of the voting age residents of a particular county or precinct, or in the event that interested citizens or organizations provide the Secretary of State with information which gives the Secretary of State sufficient reason to believe a need for the furnishing of facsimile ballots, the Secretary of State shall find a need to post at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish or other applicable language in the affected polling places.

The Secretary of State shall make the determinations and findings set forth in this subdivision by January 1 of each year in which the

Governor is elected.

In those precincts where ballots printed in a language other than English are available for use by the voters at the polls, the posting of a facsimile ballot in that particular language shall not be required.

It is the intent of the Legislature that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made on a statewide basis to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.

SEC. 2. The Secretary of State shall make the determinations and findings required under subdivision (b) of Section 14203 of the Elections Code by December 31, 1983. Subsequent determinations and findings shall be made pursuant to the requirements of subdivision (b) of Section 14203 of the Elections Code.

CHAPTER 374

An act to add Section 1805.1a to the Civil Code, relating to consumer credit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 1805.1a is added to the Civil Code, to read:

1805.1a. For purposes of Section 1805.1, the terms "household furniture, furnishings, or appliances" include, but are not limited to, organs, pianos, musical instruments, electronic home entertainment equipment, and furnishings.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Since this act defines terms used in provisions of law which cease to be operative on October 1, 1982, it is necessary that this act take effect immediately.

CHAPTER 375

An act to amend Section 487 of the Penal Code, relating to theft.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 487 of the Penal Code is amended to read:

487. Grand theft is theft committed in any of the following cases:

1. When the money, labor or real or personal property taken is of a value exceeding four hundred dollars ($400); provided, that when domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding one hundred dollars ($100); provided, further, that when fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding one hundred dollars ($100); provided, further, that where the money, labor, real or personal property is taken by a servant, agent or employee from his principal or employer and aggregates four hundred dollars ($400) or more in any 12 consecutive month period, then the same shall constitute grand theft.

2. When the property is taken from the person of another.

3. When the property taken is an automobile, firearm, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow or pig.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 376

An act to add Section 17206.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 17206.7 is added to the Revenue and Taxation Code, to read:

17206.7. The provisions of Section 17206.5 shall be applicable to any loss sustained in any county arising from storm, flooding, or other related casualty during the first week of January in 1982, notwithstanding the fact that the loss did not occur in an area which was subsequently determined by the President of the United States to warrant assistance by the federal government under an applicable

federal disaster act.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 377

An act to amend Section 84211 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 84211 of the Government Code is amended to read:

84211. Each campaign statement required by this article shall contain the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) His or her occupation;

(4) The name of his or her employer or if self-employed, name of business;

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and

(6) The cumulative amount of contributions.

(g) For each person, other than the filer, who is directly, indirectly or contingently liable for repayment of a loan received

during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) His or her occupation;

(4) The name of his or her employer or if self-employed, name of business; and

(5) The amount of his or her maximum liability.

(h) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(j) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) The amount of each expenditure;

(4) A brief description of the consideration for which each expenditure was made;

(5) In the case of an expenditure which is a contribution, the date of the contribution, the cumulative amount of contributions made to a candidate, elected officer or committee, the full name of the candidate and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon; and

(6) The information required in paragraphs (1) through (4) above, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the campaign statement.

For purposes of subdivisions (h), (i) and (j) only, the terms "expenditure" or "expenditures" means any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k) or (p), the number assigned to the committee by the Secretary of State shall be listed or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the

campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential and business addresses and telephone number of the filer, or in the case of a campaign statement filed by a committee, the name, street address and telephone number of the committee and of the committee treasurer.

(p) If the campaign statement is filed by a candidate, the name, street address and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether such committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (j) for each person who has directly, indirectly or through an intermediary received payments cumulatively totaling one hundred dollars ($100) or more for circulation of petitions to qualify a measure for the ballot.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 378

An act to amend Sections 7065 and 7065.1 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 7065 of the Business and Professions Code is amended to read:

7065. Under rules and regulations adopted by the board and approved by the director, the registrar shall investigate, classify, and qualify applicants for contractors' licenses by written examination. Contractors' licenses are to be issued to individual owners, copartnerships, and corporations. An individual owner may qualify by examination for a contractor's license upon the appearance of the owner or a qualifying individual appearing as a responsible managing employee on behalf of the owner. A copartnership may qualify by examination for a contractor's license upon the appearance of a copartner or a qualifying individual appearing as a responsible managing employee. A corporation may qualify by examination for a contractor's license upon the appearance of a qualifying individual appearing either as a responsible managing officer or a responsible managing employee. No examination shall be required of a qualifying individual if, within the three-year period immediately preceding the application for licensure, the qualifying individual has either personally passed the written examination for the same classification being applied for, or has served as the qualifying individual for a licensee whose license was in good standing at any time during the three-year period immediately preceding the application for licensure and in the same classification being applied for.

SEC. 2. Section 7065.1 of the Business and Professions Code is amended to read:

7065.1. Notwithstanding Section 7065, the registrar may waive the examination for a contractor's license under any of the following circumstances:

(a) The qualifying individual has, for five of the seven years immediately preceding the application for licensure, been a member of the personnel of record of any licensee who held an active license, which was in good standing, in the same classification being applied for.

(b) The qualifying individual is an immediate member of the family of a licensee whose individual license was active and in good standing for five of the seven years immediately preceding the application for licensure, and the qualifying individual is able to show all of the following:

(1) The qualifying individual has been actively engaged in the licensee's business for five of the seven years immediately preceding the application for licensure.

(2) The license is required to continue the existing family business in the event of the absence or death of the licensee.

(3) An application is made for a new license in the same classifications in which the licensee is or was licensed.

(c) The qualifying individual is an employee of a corporation seeking to replace its former qualifying individual and has been employed by that corporation under the following conditions:

(1) For five of the seven years immediately preceding the application for licensure, the qualifying individual has been continually employed by the corporation in a supervisory capacity in the same classifications being applied for.

(2) For five of the seven years immediately preceding the application for licensure, the corporation has held an active license in good standing in the same classifications being applied for.

For purposes of this section, employees of a corporation shall include, but not be limited to, the officers of a corporation.

CHAPTER 379

An act to amend Section 42792.1 of the Food and Agricultural Code, relating to agricultural products.

[Approved by Governor July 2, 1982. Filed with Secretary of State July 2, 1982.]

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

SECTION 1. Section 42792.1 of the Food and Agricultural Code is amended to read:

42792.1. (a) The board of supervisors of a county with a mandatory inspection ordinance for any commodity may by county ordinance, in lieu of the certificate authorized by Sections 42791 and 42792, certify compliance of a product by means of a county certification stamp or device. The certification stamp or device shall be affixed to a bill of lading, invoice, or other document which shall bear the information required by Section 42792, and which shall accompany each lot or load during transportation.

(b) The commissioner may issue the county certification stamp or device, or may authorize its use by a grower, shipper, packer, or financially interested person. Any such person shall maintain records of shipments which shall inform when the stamp or device was used and the number of containers in each lot or load represented as being so certified. The records shall be presented upon demand of the commissioner, the commissioner's representative, or any representative of the director.

(c) It shall be unlawful for any person who has been authorized to use a county certification stamp or device to do any of the following:

(1) Alter the stamp or device.

(2) Use the stamp or device to represent any lot or load of a product which is not in compliance with this division.

(3) Use the stamp or device in a manner other than provided in this section.

(d) The commissioner shall revoke or suspend the right of any person to use any certification stamp or device when that person

violates any provision of this section.

(e) It shall be unlawful for any person whose right to use any certification stamp or device has been revoked or suspended to refuse to surrender to the commissioner, upon demand, any unused stamps or other device issued to that person.

(f) Any county ordinance authorized by this section shall conform with the provisions of this division and regulations adopted pursuant thereto.

CHAPTER 380

An act to amend Sections 64151, 64153, 64154, and 64221 of, to amend and renumber Sections 64157 and 64262 of, to amend and repeal Sections 64271, 64272, 64273, 64274, 64274.7, 64275, 64276, and 64277 of, to add Sections 64010.1, 64010.2, and 64263 to, to add Article 11 (commencing with Section 64300) and Article 12 (commencing with Section 64320) to Chapter 1 of Division 22 of, to repeal Sections 64152, 64278, 64279, 64280, and 64281 of, and to repeal Article 8 (commencing with Section 64251) of Chapter 1 of Division 22 of, the Food and Agricultural Code, relating to milk, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1982. Filed with Secretary of State July 4, 1982.]

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

SECTION 1. Section 64010.1 is added to the Food and Agricultural Code, to read:

64010.1. "Class 1 milk" means market milk, market skim milk, and market cream that is supplied to consumers or used for the purposes specified in Section 61932.

SEC. 2. Section 64010.2 is added to the Food and Agricultural Code, to read:

64010.2. "All other usages" means usages other than class 1 for milk, including manufacturing grade milk received by handlers.

SEC. 3. Section 64151 of the Food and Agricultural Code is amended to read:

64151. The duties of the council are advisory, except as to those duties which may be delegated to it by the director. The council may, subject to the approval of the director, exercise any of the following powers:

(a) To recommend to the director administrative regulations which relate to the administration and enforcement of this chapter.

(b) To investigate all matters which affect the administration of this chapter, and to report violations of it to the director.

(c) To employ and, at its pleasure, discharge a manager and such

clerical help and other employees as it deems necessary, and to prescribe their duties and powers and fix their compensation.

(d) To contract with, or employ, and, at its pleasure, discharge such consultants and agencies as it deems necessary, and to outline their powers and duties and fix their compensation.

(e) To establish offices and incur expenses incidental thereto.

(f) To recommend to the director the making of such advertising contracts and other agreements as may be necessary to promote the sale of dairy products on either a local, state, national, or international basis.

(g) To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created by state or national law, and engaged in work or activities similar to the work and activities of the council, and recommend to the director the making of contracts and agreements with these organizations or agencies for carrying on joint campaigns of research, education, and advertising. In matters of research, the council shall, however, cooperate with organizations of recognized professional standing which are adequately equipped with facilities for the research which is contemplated.

(h) To recommend to the director the institution and promotion of scientific research to develop or discover, or both to develop and discover, the health, food, therapeutic, dietetic, and industrial uses of milk and its products and derivatives.

(i) To cooperate with other public and private agencies which are engaged in similar work or activities in order to avoid or minimize any overlapping or duplication of work or conflict.

(j) Receive, invest, and disburse funds, pursuant to Article 11 (commencing with Section 64300).

SEC. 4. Section 64152 of the Food and Agricultural Code is repealed.

SEC. 5. Section 64153 of the Food and Agricultural Code is amended to read:

64153. Annually, prior to July 1 of each year, the council shall formulate and transmit to the director statements of its recommended activities and proposed budget for the coming fiscal year. The statements shall:

(a) Be based on and made after an investigation by the council of the necessities of the dairy industry and the extent of the public interest, necessity, and convenience to be served by those recommended activities.

(b) Describe the council's recommended programs of research, education, publicity, and advertising.

(c) Set forth in a proposed budget the amounts which are deemed necessary to be allocated by the director both to effectuate these programs and to perform his or her administrative duties pursuant to this chapter, which budget shall include reasonable amounts for contingencies.

(d) Be in such form and detail as the director, in the reasonable

exercise of his or her judgment, deems necessary to adequately show whether or not the activities are warranted by the facts which are disclosed by the statements and are authorized by this chapter.

SEC. 6. Section 64154 of the Food and Agricultural Code is amended to read:

64154. If the activities and budgeted amounts which are recommended by the council and are described in the statements provided for in Section 64153 are warranted by the facts which are disclosed by the statements and are authorized by this chapter, the director shall approve the activities for the council programs, in writing, within 20 days after each of the statements has been submitted to him or her. The director shall also approve, in writing, the budget provided for in subdivision (c) of Section 64153 within 20 days after the budget has been submitted. If the director refuses or fails to give any such approvals within the required periods, the director shall notify the council promptly of his or her refusal or failure to approve the activities or budget and give his or her reasons, specifically, for the refusal or failure.

Expenditures for political contributions or for lobbying are not authorized.

SEC. 7. Section 64157 of the Food and Agricultural Code is amended and renumbered to read:

64158. The council shall, annually, report to the members of the dairy industry on the activities and programs, including, but not limited to, the income and expenses, the fund balance, and a report of progress in achieving program goals, as prescribed by the director.

SEC. 8. Section 64221 of the Food and Agricultural Code is amended to read:

64221. Every handler and producer-handler shall keep complete and accurate records of all milk, skim milk, and cream in unprocessed form which the handler or producer-handler purchases, or possession or control of which he or she acquires from any producer or other handler. A producer-handler shall include his or her own production in these records. Every handler and producer-handler shall also keep complete and accurate records by class usage of all milk, skim milk, and cream which he or she utilizes for processing.

SEC. 9. Section 64263 is added to the Food and Agricultural Code, to read:

64263. This article shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 10. Section 64262 of the Food and Agricultural Code is amended and renumbered to read:

64157. The council shall request the director to submit to it an annual budget which sets forth in reasonable detail the proposed expenditures which he or she deems necessary for the performance by him or her and by the department of the duties which are imposed upon them by this chapter. The council shall also request

the director to submit to it an annual statement, in reasonable detail, of his or her expenditures pursuant to this chapter.

SEC. 11. Section 64271 of the Food and Agricultural Code is amended to read:

64271. As used in this chapter, "class 1 milk" means fluid milk, fluid skim milk, and fluid cream that is supplied to consumers or used for the purposes specified in Section 61932.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 12. Section 64272 of the Food and Agricultural Code is amended to read:

64272. During each four-year period, following the original referendum in 1963, during which a more extensive campaign is authorized pursuant to Section 64277, every producer, handler, and producer-handler of the milk shall pay the additional fees which are prescribed by this article.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 13. Section 64273 of the Food and Agricultural Code is amended to read:

64273. During this period, each producer and producer-handler shall pay a maximum fee, for each month of the year other than the months of May and October, of not to exceed one and one-tenth cents ($0.011) per hundredweight of milk produced by him or her in the state, delivered by him or her to a handler and used as class 1 milk, including milk produced by a producer-handler and used by this handler as class 1 milk.

For the purpose of this section, the class 1 usage for each producer shall be the hundredweight whole milk equivalent computed by combining the class 1 milk fat usage and the class 1 skim milk usage allocated to all milk delivered by the producer to a handler or producer-handler. This class 1 skim milk usage shall be computed by dividing the class 1 solids-not-fat usage by the monthly average solids-not-fat test of skim milk in the milk first received from the producer by handlers or producer-handlers. The collection of the fee to be paid by handlers, including producer-handlers, pursuant to Sections 64252 and 64274, is to be used for the handler portion of council assessments only, and shall not affect payments by producers, nor in any way change the method of producer payment for milk.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 14. Section 64274 of the Food and Agricultural Code is amended to read:

64274. During this period, each handler and producer-handler shall pay a maximum fee to the director, for each month of the year other than the months of May and October, of not to exceed one and

one-tenth cents ($0.011) per hundredweight on all milk, skim milk, and cream received from a producer, producer-handler, or another handler and utilized in the plant of the receiving handler, or producer-handler, in the processing and manufacture of class 1 milk and milk products. This class 1 usage shall be computed by combining pounds of milk fat and skim milk so utilized as class 1, together with plant loss of this milk fat and skim milk allocated to class 1 usage, and all condensed products and dry solids-not-fat utilized in the handler's plant in the fortification by the handler of class 1 milk or milk products.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 15. Section 64274.7 of the Food and Agricultural Code is amended to read:

64274.7. Any payment made pursuant to this article may be either a direct payment or may be made, at the discretion of the director, through pool accounting procedures established by the director under Chapter 3 (commencing with Section 62700).

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 16. Section 64275 of the Food and Agricultural Code is amended to read:

64275. The director shall determine the amount of the fees to be paid up to the maximum amount and shall determine the effective period for the fees.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 17. Section 64276 of the Food and Agricultural Code is amended to read:

64276. The fees which are imposed shall be the same for producers as for handlers. The fees authorized may be made effective only for those months of the year other than the months of May and October. The fees authorized shall be in addition to the fees authorized in Sections 64251 and 64252 for the months of May and October and shall be collected and handled in the same manner as provided in Article 8 (commencing with Section 64251), and shall be used to accomplish the purposes of this chapter.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 18. Section 64277 of the Food and Agricultural Code is amended to read:

64277. A more extensive campaign of research, advertising, publicity, and education may be continued for subsequent four-year periods in the manner provided in this article.

This section shall remain in effect only until January 1, 1983, and

as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC. 19. Section 64278 of the Food and Agricultural Code is repealed.

SEC. 20. Section 64279 of the Food and Agricultural Code is repealed.

SEC. 21. Section 64280 of the Food and Agricultural Code is repealed.

SEC. 22. Section 64281 of the Food and Agricultural Code is repealed.

SEC. 23. Article 11 (commencing with Section 64300) is added to Chapter 1 of Division 22 of the Food and Agricultural Code, to read:

Article 11. Financing Plan

64300. This article provides for a comprehensive and continuing plan for financing the operations of the council.

64301. Annually, prior to the commencement of the fiscal year, the director shall, upon recommendation of the council, establish and announce the fees for milk used in class 1 and for all other usages to be paid by producers, producer-handlers, and handlers for the coming fiscal year.

These fees shall be established at a level not to exceed the amount required to finance the budget for the coming fiscal year as approved by the director pursuant to Sections 64153 and 64154 except that the initial fees established for the period January through June 1983 shall be at the maximum rate prescribed herein based upon prices calculated for November 1982.

The fees established by the director shall not exceed a maximum rate to be determined as follows:

(a) The director shall determine a maximum rate per hundredweight for class 1 milk which shall be equal to 12 one-hundredths of 1 percent of the statewide average value per hundredweight of such market milk testing 3.5 percent milkfat and 8.7 percent solids-not-fat as calculated by the Bureau of Milk Pooling for the month of April of each year.

(b) The director shall determine a maximum rate per hundredweight for all other usages of milk which shall be equal to four one-hundredths of 1 percent of the statewide weighted average value per hundredweight of classes 2, 3, 4a, and 4b market milk testing 3.5 percent milkfat and 8.7 percent solids-not-fat as calculated by the Bureau of Milk Pooling for the month of April of each year.

(c) The fees for class 1 milk and for all other usages shall not exceed the rates determined herein and shall be computed to the nearest one-tenth of one mill ($0.0001) per hundredweight.

The relationship between the fees per hundredweight established for class 1 milk and for all other usages shall be at a ratio equal to the ratio between the maximum rates determined in subdivisions (a) and (b) above. These fees shall be the same for producers and

handlers.

64302. (a) Each producer and producer-handler shall pay fees established for each hundredweight of milk produced by him or her in the state and delivered to a handler. The fees shall be collected by the first handler that purchases, or otherwise acquires possession or control of, this milk by deducting the fee from any payment which is due the producer for this milk. Each producer-handler shall pay the fee on his or her own production. For the purposes of this article, a handler that sells unprocessed milk, of which he or she has the right to possession or control by contract or otherwise, to another handler, and delivers this milk in unprocessed form to this other handler or causes this milk to be delivered to this other handler directly from the producer, is the first handler of this milk.

(b) For the purpose of this chapter, the class 1 fee of each producer shall be determined on the hundredweight equivalent computed by combining the class 1 fat usage and the class 1 skim usage included in the payment to the producer. This skim usage shall be computed by dividing the solids-not-fat usage by the monthly average solids-not-fat test of skim milk first received from the producer by handlers or producer-handlers.

(c) The fee of each producer for all other milk shall be determined on the total hundredweight of milk produced and delivered remaining after deducting the class 1 equivalent as computed herein.

(d) The collection of fees to be paid by handlers, including producer-handlers, pursuant to Section 64303 is to be used for the handler portion of council assessments only, and shall not affect payments of producers, nor in any way change the method of producer payment for milk.

64303. Each handler and producer-handler shall pay to the director the fees established for class 1 milk and for milk for all other usages on all milk, skim milk, and cream utilized in the plant of the handler, or producer-handler in the processing and manufacture of milk and milk products. This usage shall be computed by combining pounds of fat and skim milk so utilized, together with allocated plant loss of this milkfat and skim milk.

64304. The fees established and assessed as prescribed in this chapter shall be billed monthly to the handler and the producer-handler, and shall be paid to the director not later than the 15th day of the second month following the month during which the milk was received.

64305. Fees established and assessed under this chapter may be collected by the director through direct payment or through pool accounting procedures established by the director under Chapter 3 (commencing with Section 62700).

64306. To the amount of fees which are unpaid when due, the director may add a penalty of 10 percent.

64307. The director, by action prosecuted by him or her, may recover any unpaid fees. In any action, a certificate of the director

which shows the amount, including penalty, determined by the director to be required to be paid by the person required to pay this amount is prima facie evidence of the delinquency. The presumption established by this section is a presumption affecting the burden of proof.

64308. If any handler or producer-handler does not provide the information necessary to determine the amount of fees due, when required, the director shall estimate the amount due from the records of the department or from any other source of information which is available. In any action by the director to recover fees pursuant to this chapter, a certificate of the director which shows the amount determined by the director to be required to be paid by the person that is required to pay the fees is prima facie evidence of the delinquency of the amount which is shown. The presumption established by this section is a presumption affecting the burden of proof.

64309. (a) Any money which is collected by the director pursuant to this chapter shall be deposited in a bank or other depository which is approved by the Director of Finance. Funds which are so collected shall be deposited and disbursed in conformity with appropriate regulations prescribed by the director and may be allocated to pay for expenses generated by the auditing requirement imposed by subdivision (b). The expenditure of those funds shall be exempt from the provisions of Section 925.6 of the Government Code.

(b) All such expenditures by the director shall be audited at least once every two years by one of the following means:

(1) By contract with a certified public accountant.

(2) By contract with a public accountant holding a valid permit issued by the State Board of Accountancy.

(3) By contract with a public accounting firm.

(4) By agreement with the Department of Finance.

A copy of the audit shall be delivered within 30 days after the completion thereof to the Governor, the director, and the Controller.

64310. Any money which is collected by the director pursuant to this chapter is hereby appropriated to the department to carry out the duties which are imposed upon the director and the council pursuant to this chapter. The appropriation which is made in this section is exempt from the operation of Section 16304 of the Government Code.

The money which is collected by the director pursuant to this chapter shall be disbursed by the director only for the necessary expenses incurred by the council and the director to carry out the purposes of this chapter, including the payment of refunds which are authorized pursuant to this chapter. The director may disburse these funds in authorized activities related to particular dairy products without reference to the branches of the dairy industry from which these funds are derived.

64311. Any money which is deposited by the director pursuant to Section 64309, which the director determines is available for investment, may be invested or reinvested by the State Treasurer in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a bank as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, these moneys may also be combined with funds determined by the director to be available for investment pursuant to Section 58939.

64312. Any increment which is received from investment, reinvestment, or deposit of money pursuant to Section 64311 shall be deposited to the credit of the council. The State Treasurer may deduct from this remittance an amount equal to the reasonable costs incurred in carrying out the provisions of this article or may bill the director for the costs and the director shall pay the costs from moneys collected pursuant to this chapter.

64313. This article shall become operative on January 1, 1983.

SEC. 24. Article 12 (commencing with Section 64320) is added to Chapter 1 of Division 22 of the Food and Agricultural Code, to read:

Article 12. Referendum

64320. (a) Between July 1, 1983, and December 31, 1983, and in the same period each four years thereafter, the director shall, by the public hearing procedure, and if appropriate, the referendum procedure provided for in this article, determine whether the council program provided for in this chapter shall continue in effect.

(b) If the director finds from evidence received at the hearing that a substantial question exists as to whether the council program is contrary to or does not effectuate the declared purposes or provisions of this chapter, the council program shall be submitted to referendum as provided in subdivision (c).

(c) If the director determines that a referendum procedure is appropriate, the director shall establish a referendum period of not to exceed 30 days during which period ballots shall be submitted to all producers, producer-handlers, and handlers on a statewide basis. If the director determines that the referendum period does not provide sufficient time for the balloting, the director may extend the referendum for an additional period not to exceed 30 days. The ballots shall provide a "yes" or "no" voting alternative to the question:

"Shall the Dairy Council of California be continued for the next four fiscal years commencing July 1 following this referendum?"

64321. If the council program is submitted to a referendum, the director shall find that producers, handlers, and producer-handlers statewide have assented to the council program if he or she finds both of the following:

(a) Sixty-five percent or more of the total number of handlers, including producer-handlers, voting approve the program.

(b) (1) Not less than 51 percent of the total number of eligible producers, including producer-handlers, in the state voted in the referendum.

(2) Sixty-five percent or more of the total number of eligible producers, including producer-handlers, who voted in the referendum and who produced 51 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the commencement of the referendum period by all producers who voted in the referendum approve the program, or 51 percent or more of the total number of eligible producers who voted in the referendum and who produced 65 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the commencement of the referendum period by all producers who voted in the referendum, approve the program.

64321.5. If the director finds that producers, handlers, and producer-handlers have not assented to the council program pursuant to Section 64321, the program may be resubmitted to a referendum as prescribed herein within a period of not less than 60 days and not more than 180 days after the director announces the plan was not approved.

64322. (a) If the council program has been submitted to referendum pursuant to procedures prescribed in Section 64321 and the director finds that producers, handlers, and producer-handlers have not assented to the program, or if the program is resubmitted pursuant to Section 64321.5 and the director finds that assent is again not forthcoming, operations of the provisions of this chapter and of the council shall be suspended commencing July 1 following the referendum or referendums.

(b) After the effective date of suspension of the operation of the provisions of this chapter and of the council, the operations of the council shall be wound up, and any real and personal property held in the name of the council shall be liquidated and the proceeds, along with any and all remaining money held by the council, collected by assessment and not required to defray the expenses of winding up and terminating operations of the council, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding three months. However, if the director finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any such moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

SEC. 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to complete in a timely fashion necessary budget revisions and to avoid the cost of the 1982 referendum procedures prescribed in Article 9 (commencing with Section 64278), it is necessary that this act take effect immediately.

CHAPTER 381

An act to amend Section 1793.1 of the Civil Code, relating to warranties.

[Approved by Governor July 4, 1982. Filed with Secretary of State July 4, 1982.]

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

SECTION 1. Section 1793.1 of the Civil Code is amended to read:

1793.1. (a) (1) Every manufacturer, distributor, or retailer making express warranties with respect to consumer goods shall fully set forth such warranties in simple and readily understood language, which shall clearly identify the party making such express warranties, and which shall conform to the federal standards for disclosure of warranty terms and conditions set forth in the federal Magnuson-Moss Warranty Federal Trade Commission Improvement Act, and in the regulations of the Federal Trade Commission adopted pursuant to the provisions of that act.

(2) Every work order or repair invoice for warranty repairs or service shall clearly and conspicuously incorporate in 10-point boldface type the following statement either on the face of such work order or repair invoice, or on the reverse side thereof, or on an attachment to the work order or repair invoice: A buyer of this product in California has the right to have this product serviced or repaired during the warranty period. The warranty period will be extended for the number of whole days that the product has been out of the buyer's hands for warranty repairs. If a defect exists within the warranty period, the warranty will not expire until the defect has been fixed. The warranty period will also be extended if the warranty repairs have not been performed due to delays caused by circumstances beyond the control of the buyer, or if the warranty repairs did not remedy the defect and the buyer notifies the manufacturer or seller of the failure of the repairs within 60 days after they were completed. If, after a reasonable number of attempts, the defect has not been fixed, the buyer may return this product for a replacement or a refund subject, in either case, to deduction of a reasonable charge for usage. This time extension does not affect the protections or remedies the buyer has under other laws.

If the required notice is placed on the reverse side of the work order or repair invoice, the face of the work order or repair invoice

shall include the following notice in 10-point boldface type: Notice to Consumer: Please read important information on back.

A copy of the work order or repair invoice and any attachment thereto shall be presented to the buyer at the time that warranty service or repairs are made.

(b) Every manufacturer, distributor, or retailer making express warranties and who elects to maintain service and repair facilities within this state pursuant to the provisions of this chapter shall:

(1) At the time of sale, provide the buyer with the name and address of each such service and repair facility within this state; or

(2) At the time of the sale, provide the buyer with the name and address and telephone number of a service and repair facility central directory within this state, or the toll-free telephone number of a service and repair facility central directory outside this state. It shall be the duty of the central directory to provide, upon inquiry, the name and address of the authorized service and repair facility nearest the buyer; or

(3) Maintain at the premises of retail sellers of the warrantor's consumer goods a current listing of such warrantor's authorized service and repair facilities, or retail sellers to whom the consumer goods are to be returned for service and repair, whichever is applicable, within this state. It shall be the duty of every retail seller provided with such a listing to provide, on inquiry, the name, address, and telephone number of the nearest authorized service and repair facility, or the retail seller to whom the consumer goods are to be returned for service and repair, whichever is applicable.

CHAPTER 382

An act to add Section 2267 to the Vehicle Code, relating to the California Highway Patrol.

[Approved by Governor July 4, 1982 Filed with Secretary of State July 4, 1982.]

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

SECTION 1. Section 2267 is added to the Vehicle Code, to read:

2267. (a) No person shall be appointed as a member of the California Highway Patrol who is not a citizen of the United States.

(b) A member of the patrol appointed prior to the effective date of this act who is not a United States citizen shall become a United States citizen at the earliest possible time. Inability or failure to comply with this subdivision shall result in termination of employment.

CHAPTER 383

An act to amend Sections 545, 34500, 34506, and 40000.21 of, and to add Sections 680, 2807.3, 2816, 12523, and 27906.5 to, the Vehicle Code, and to repeal Chapter 133 of the Statutes of 1982, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1982. Filed with Secretary of State July 4, 1982.]

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

SECTION 1. Section 545 of the Vehicle Code is amended to read:

545. A "schoolbus" is any motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the 12th-grade level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of the owner thereof.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any such vehicle or truck transporting two or more handicapped pupils confined to wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from a handicapped pupil confined to a wheelchair, or from a parent of the handicapped pupil, for transportation to or from nonschool activities; provided, that the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus as defined in Section 546.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission which is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) A youth bus as defined in Section 680.

(g) Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, if it is primarily used for the transportation of community college students to or from a public community college or to or from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Department

of the California Highway Patrol.

SEC. 2. Section 680 is added to the Vehicle Code, to read:

680. A "youth bus" is any bus, other than a schoolbus, designed for and when actually carrying not more than 16 persons and the driver, used to transport children at or below the 12th-grade level from a public or private school to a nonschool-related youth activity within 25 miles of the school.

SEC. 3. Section 2807.3 is added to the Vehicle Code, to read:

2807.3. (a) The Department of the California Highway Patrol shall inspect and certify every youth bus at least once each school year to ascertain whether its condition complies with all provisions of law.

(b) No person shall drive any youth bus unless there is displayed therein a certificate issued by the Department of the California Highway Patrol stating that on a certain date, which shall be within 13 months of the date of operation, an authorized employee of the Department of the California Highway Patrol inspected the youth bus and found that on the date of inspection the youth bus complied with the applicable provisions of state law. The Commissioner of the California Highway Patrol shall provide by rule or regulation for the issuance and display of distinctive inspection certificates.

(c) The Commissioner of the California Highway Patrol may determine the fee for the annual inspection of youth buses. The fee, established by regulation, shall be sufficient to cover the cost to the department for youth bus inspections and testing of drivers pursuant to Section 12523. The fee shall be paid by the applicant for a youth bus certificate at the time of inspection. All fees received shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

SEC. 4. Section 2816 is added to the Vehicle Code, to read:

2816. It is unlawful to load or discharge children onto or from a youth bus upon a highway at any location where the children must cross the highway upon which the youth bus is stopped, unless traffic is controlled by a traffic officer or an official traffic control signal.

SEC. 5. Section 12523 is added to the Vehicle Code, to read:

12523. (a) No person shall operate a youth bus unless he has in his possession a valid driver's license of the appropriate class and a certificate issued by the department to permit the operation of a youth bus.

(b) Applicants for a certificate to drive a youth bus shall present evidence that they have successfully completed a driver training course administered by or at the direction of their employer consisting of a minimum of 10 hours of classroom instruction covering applicable laws and regulations and defensive driving practices and a minimum of 10 hours of behind-the-wheel training in a vehicle to be used as a youth bus. Applicants seeking to renew a certificate valid for driving a youth bus shall present evidence that they have received two hours of refresher training during each 12 months of driver certificate validity.

(c) The driver certificate shall be issued only to applicants qualified by examinations prescribed by the Department of Motor Vehicles and the Department of the California Highway Patrol. Such examinations shall be conducted by the Department of the California Highway Patrol. The Department of Motor Vehicles may deny, suspend, or revoke a certificate valid for driving a youth bus for the causes specified in regulations adopted by the Department of the California Highway Patrol for schoolbus drivers.

(d) An operator of a youth bus shall, at all times when operating a youth bus, do all of the following:

(1) Use seat belts.

(2) Refrain from smoking.

(3) Report any accidents to the California Highway Patrol.

SEC. 6. Section 27906.5 is added to the Vehicle Code, to read:

27906.5. Every youth bus, when operated for the transportation of school pupils, shall bear, upon the front and rear of the youth bus, a plainly visible sign containing the words "YOUTH BUS" in letters not less than eight inches in height. The letters on youth bus signs shall be of proportionate width and the letters shall be in sharp contrast to the background.

SEC. 7. Section 34500 of the Vehicle Code is amended to read:

34500. The Department of the California Highway Patrol shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles which are more than 6,000 pounds unladen weight.

(b) Truck tractors.

(c) Buses, schoolbuses, and youth buses.

(d) Trailers, semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with motortrucks of three or more axles, truck tractors, buses, or schoolbuses.

(e) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (d) that exceeds 40 feet in length when coupled together.

(f) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(g) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(h) Any other motortruck not specified in subdivisions (a) through (g), inclusive, that is regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and log books of drivers.

SEC. 8. Section 34506 of the Vehicle Code is amended to read:

34506. It is a misdemeanor to fail to comply with any rule or regulation adopted by the Department of the California Highway Patrol pursuant to Sections 34501, 34501.5, and 34508 regarding:

(a) Hours of service of drivers.

(b) Hazardous material transportation.

(c) Schoolbus constructions, design, color, equipment,

maintenance, or operation.

(d) Youth bus equipment, maintenance, or operation.

SEC. 9. Section 40000.21 of the Vehicle Code is amended to read:

40000.21. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

(a) Section 34506, subdivision (a), relating to the hours of service of drivers.

(b) Section 34506, subdivision (b), relating to the transportation of hazardous materials.

(c) Section 34506, subdivision (c), relating to schoolbuses.

(d) Section 34506, subdivision (d), relating to youth buses.

SEC. 10. Chapter 133 of the Statutes of 1982 is repealed.

SEC. 11. The Legislature declares that the regulations relating to youth bus safety are of utmost importance to the safe transportation of children within the state. The Office of Administrative Law shall therefore expedite its review of those regulations.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 13. This act shall become operative on the date the regulations adopted by the Department of the California Highway Patrol governing youth buses becomes effective, but this act shall not become operative sooner than October 1, 1982, nor later than January 1, 1983.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Operators of "youth buses" have already signed contracts for the operation of these buses and the employment of their drivers to begin in September 1982 in conjunction with the new school year. These contracts were concluded in anticipation of the provisions of Assembly Bill 366 taking effect in January of 1982. Because the bill became Chapter 133 of the Statutes of 1982 and will not take effect until January of 1983, school districts will be unable to honor the youth bus contracts at the start of the school year. Hence, the planned transportation services will not be provided and it is necessary for this act to take effect immediately in order to remedy the situation.

CHAPTER 384

An act to amend Section 12030 of the Penal Code, relating to firearms.

[Approved by Governor July 4, 1982. Filed with Secretary of State July 4, 1982.]

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

SECTION 1. Section 12030 of the Penal Code is amended to read:

12030. The officer having custody of any firearms which may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, including, but not limited to, the California National Guard military museum and resource center, may, upon the authority of the legislative body of the city, city and county, or county by which he or she is employed and the approval of the commanding general of the state military forces, deliver the firearms to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government in lieu of destruction as required by this chapter. The officer delivering the firearms shall take a receipt for them containing a complete description thereof and shall keep the receipt on file in his or her office as a public record.

Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, or upon approval of a court, may release them to any other law enforcement agency, for use in carrying out the official duties of that agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office any weapons which may be useful in carrying out the official duties of their respective agencies.

Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties. In the case of firearms or weaponry donated to the California National Guard military museum and resource center, they may be disposed of pursuant to Section 179 of the Military and Veterans Code.

Any law enforcement agency that retains custody of any firearm pursuant to this section or that destroys a firearm pursuant to Section 12028 shall notify the Department of Justice of the retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

CHAPTER 385

An act to add Section 1794 to, and to repeal Sections 1794 and 1794.2 of, the Civil Code, relating to warranties.

[Approved by Governor July 4, 1982. Filed with Secretary of State July 4, 1982.]

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

SECTION 1. Section 1794 of the Civil Code is repealed.

SEC. 2. Section 1794 is added to the Civil Code, to read:

1794. (a) Any buyer of consumer goods who is damaged by a failure to comply with any obligation under this chapter or under an implied or express warranty or service contract may bring an action for the recovery of damages and other legal and equitable relief.

(b) The measure of the buyer's damages in an action under this section shall be as follows:

(1) Where the buyer has rightfully rejected or justifiably revoked acceptance of the goods or has exercised any right to cancel the sale, Sections 2711, 2712, and 2713 of the Commercial Code shall apply.

(2) Where the buyer has accepted the goods, Sections 2714 and 2715 of the Commercial Code shall apply, and the measure of damages shall include the cost of repairs necessary to make the goods conform.

(c) If the buyer establishes that the failure to comply was willful, the judgment may include, in addition to the amounts recovered under subdivision (a), a civil penalty which shall not exceed two times the amount of actual damages. This subdivision shall not apply in any class action under Section 382 of the Code of Civil Procedure or under Section 1781, or with respect to a claim based solely on a breach of an implied warranty.

(d) If the buyer prevails in an action under this section, the buyer may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action, unless the court in its discretion determines that such an award of attorney's fees would be inappropriate.

SEC. 3. Section 1794.2 of the Civil Code is repealed.

CHAPTER 386

An act to amend Section 2782 of the Civil Code, relating to contracts.

[Approved by Governor July 4, 1982. Filed with Secretary of State July 5, 1982.]

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

SECTION 1. Section 2782 of the Civil Code is amended to read:

2782. (a) All provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract and which purport to indemnify the promisee against liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole negligence or willful misconduct of the promisee or the promisee's agents, servants or independent contractors who are directly responsible to such promisee, or for defects in design furnished by such persons, are against public policy and are void and unenforceable; provided, however, that this provision shall not affect the validity of any insurance contract, workers' compensation or agreement issued by an admitted insurer as defined by the Insurance Code.

(b) All provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract with a public agency which purport to impose on the contractor, or relieve the public agency from, liability for the active negligence of the public agency shall be void and unenforceable.

CHAPTER 387

An act to amend Sections 28575 and 28620 of, and to add Sections 28575.5, 28578.5, 28620.5, and 28842.5 to, the Health and Safety Code, relating to food and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 28575 of the Health and Safety Code is amended to read:

28575. Except as provided in Sections 28575.5, 28578, and 28578.5, all readily perishable food or beverage, capable of supporting rapid

and progressive growth of micro-organisms which can cause food infections or food intoxications, and which are intended to be held prior to processing, or are to be reused on the premises, shall be maintained at or below a temperature of 45 degrees Fahrenheit. No such readily perishable food or beverage which is to be served to the consumer on the premises where prepared shall be held above such temperature for such periods of time and under such conditions which can cause food intoxication.

SEC. 2. Section 28575.5 is added to the Health and Safety Code, to read:

28575.5. Raw duck which otherwise would be readily perishable shall be exempt from the provisions of Section 28575, for a period not to exceed two hours, if the duck will subsequently be cooked at or above a temperature of 350 degrees Fahrenheit or more for at least 60 minutes.

Nothing in this section shall be construed to supersede any provision of this chapter except the provisions specified in this subdivision.

SEC. 3. Section 28578.5 is added to the Health and Safety Code, to read:

28578.5. (a) Whole Chinese-style roast duck shall be exempted from the provisions of Sections 28575 and 28578 for a period not to exceed four hours after the duck is prepared, since the methods used to prepare these foods inhibit the growth of micro-organisms which can cause food infections or food intoxications.

Nothing in this section shall be construed to supersede any provision of this chapter except the provisions specified in this subdivision.

(b) For the purpose of this section, "Chinese-style roast duck" shall include, but is not limited to, Chinese-style barbeque duck, dry hung duck, and Peking duck.

Chinese-style roast duck means duck which is prepared as follows:

(1) The abdominal cavity is cleaned.

(2) The duck is marinated.

(3) The cavity is closed prior to cooking.

(4) The duck is roasted at a temperature of 350 degrees Fahrenheit or more for at least 60 minutes.

SEC. 4. Section 28620 of the Health and Safety Code is amended to read:

28620. Except as provided in Sections 28620.5 and 28623 all readily perishable food or beverage, capable of supporting rapid and progressive growth of micro-organisms which can cause food infections or food intoxications, and which are intended to be held prior to processing, or are to be reused on the premises shall be maintained at or below a temperature of 45 degrees Fahrenheit. No such readily perishable food or beverage which is to be served to the consumer on the premises where prepared shall be held above this temperature for such periods of time and under such conditions which can cause food intoxication.

SEC. 5. Section 28620.5 is added to the Health and Safety Code, to read:

28620.5. (a) Whole Chinese-style roast duck shall be exempted from the provisions of Sections 28620 and 28623 for a period not to exceed four hours after the duck is prepared, since the methods used to prepare the duck inhibit the growth of micro-organisms which can cause food infections or food intoxications.

Nothing in this section shall be construed to supersede any provision of this chapter except the provisions specified in this subdivision.

(b) For the purpose of this section, "Chinese-style roast duck" shall include, but is not limited to, Chinese-style barbeque duck, dry hung duck, and Peking duck.

Chinese-style roast duck means duck which is prepared as follows:

(1) The abdominal cavity is cleaned.

(2) The duck is marinated.

(3) The cavity is closed prior to cooking.

(4) The duck is roasted at a temperature of 350 degrees Fahrenheit or more for at least 60 minutes.

SEC. 6. Section 28842.5 is added to the Health and Safety Code, to read:

28842.5. (a) Whole Chinese-style roast duck shall be exempted from the provisions of Section 28842 for a period not to exceed four hours after the duck is prepared, since the methods used to prepare the duck inhibit the growth of micro-organisms which can cause food infections or food intoxications.

Nothing in this section shall be construed to supersede any provision of this chapter except the provisions specified in this subdivision.

(b) For the purpose of this section, "Chinese-style roast duck" shall include, but is not limited to, Chinese-style barbeque duck, dry hung duck, and Peking duck.

Chinese-style roast duck means duck which is prepared as follows:

(1) The abdominal cavity is cleaned.

(2) The duck is marinated.

(3) The cavity is closed prior to cooking.

(4) The duck is roasted at a temperature of 350 degrees Fahrenheit or more for at least 60 minutes.

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

In order to ensure that restaurants which provide whole Chinese-style roast duck may continue to do so without interruption, it is necessary that this act take effect immediately.

CHAPTER 388

An act to amend Section 1793.2 of the Civil Code, relating to warranties.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 1793.2 of the Civil Code is amended to read:

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties.

As a means of complying with paragraph (1) of this subdivision, a manufacturer shall be permitted to enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work, however, the rates fixed by such contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, shall not preclude a good-faith discount which is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph shall not be executed to cover a period of time in excess of one year.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to the provisions of Section 1793.5.

(b) Where such service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and

repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods must be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or his representatives shall serve to extend this 30-day requirement. Where such delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) It shall be the duty of the buyer to deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, such delivery cannot reasonably be accomplished. Should the buyer be unable to effect return of nonconforming goods for any of the above reasons, he shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of such notice of nonconformity the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when, pursuant to the above, a buyer is unable to effect return shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) Should the manufacturer or its representative in this state be unable to service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(e) (1) It shall be presumed that a reasonable number of attempts have been made to conform a new motor vehicle to the applicable express warranties if, within one year from delivery to the buyer or 12,000 miles, whichever occurs first, either (A) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity, or (B) the vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to

directly notify the manufacturer pursuant to subparagraph (A) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this subdivision and that of subdivision (d), including the requirement that the buyer must notify the manufacturer directly pursuant to subparagraph (A). This presumption shall be a rebuttable presumption affecting the burden of proof in any action to enforce the buyer's rights under subdivision (d) and shall not be construed to limit those rights.

(2) If a qualified third party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of a third party process with a description of its operation and effect, the presumption in paragraph (1) may not be asserted by the buyer until after the buyer has initially resorted to the third party process as required in paragraph (3). Notification of the availability of the third party process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third party dispute resolution process does not exist, or if the buyer is dissatisfied with the third party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of such third party decision, the buyer may assert the presumption provided in paragraph (1) in an action to enforce the buyer's rights under subdivision (d). The findings and decision of the third party shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms, whichever occurs later.

(3) A qualified third party dispute resolution process shall be one that complies with the Federal Trade Commission's minimum requirements for informal dispute settlement procedures as set forth in the Commission's regulations at 16 Code of Federal Regulations Part 703; that renders decisions which are binding on the manufacturer if the buyer elects to accept the decision; that prescribes a reasonable time not to exceed 30 days, within which the manufacturer or its agents must fulfill the terms of those decisions; and that each year provides to the Department of Motor Vehicles a report of its annual audit required by the Commission's regulations on informal dispute resolution procedures.

(4) For the purposes of this subdivision the following terms have the following meanings:

(A) "Nonconformity" means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle.

(B) "New motor vehicle" means a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes, but does not include motorcycles, motorhomes, or off-road vehicles.

CHAPTER 389

An act to amend Sections 700.01 and 700.02 of the Insurance Code, relating to insurance.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 700.01 of the Insurance Code is amended to read:

700.01. In addition to any or all of the classes of insurance which it is permitted to transact by all other applicable provisions of this code, any incorporated insurer admitted or hereafter admitted for one or more of the classes of insurance stated in Section 100, except life, title, mortgage, or mortgage guaranty shall (subject to any limitations contained in its articles of incorporation or charter) be admitted after October 1, 1953, for any or all of the following classes, upon making application therefor and complying with all applicable requirements of law, if its paid-in capital is not less than one million three hundred thousand dollars ($1,300,000) or the aggregate of the amounts hereinafter set forth opposite the classes transacted by it in the United States if an alien insurer, or in any jurisdiction if other than an alien insurer, whichever is lower; provided, that the paid-in capital of incorporated insurers not transacting either fire, marine or surety insurance making application under this section shall be at least one hundred fifty thousand dollars ($150,000) in excess of such aggregate amount. In no event shall any incorporated insurer, as a condition for its admission, be permitted to have a paid-in capital of less than five hundred thousand dollars ($500,000) or be required to have a paid-in capital in excess of one million three hundred thousand dollars ($1,300,000) for any or all of the classes of insurance hereinafter set forth.

Number and name of class	*Amount of capital*
2. Fire	$200,000
3. Marine	200,000
5. Surety	250,000
6. Disability	50,000
7. Plate glass	50,000
8. Liability 9. Workers' compensation 10. Common carrier liability	100,000 for any or all of these
11. Boiler and machinery	50,000
12. Burglary	50,000
13. Credit	50,000
14. Sprinkler	50,000
15. Team and vehicle	50,000
16. Automobile	100,000
18. Aircraft	50,000
20. Miscellaneous	50,000

This section shall not be applicable to life, title, mortgage, or mortgage guaranty insurance, and an insurer now or hereafter admitted to transact life, title, mortgage, or mortgage guaranty insurance shall not be admitted under the provisions of this section, but its admission is governed by other applicable provisions of this code.

Insurers admitted for one or more classes of insurance on December 31, 1981, shall be governed by the provisions of this section in effect on December 31, 1981.

SEC. 2. Section 700.02 of the Insurance Code is amended to read:

700.02. No insurer shall be issued a certificate of authority other than a renewal certificate of authority for any of the classes set forth in Section 100 unless at the time of such issuance it possesses, in addition to the minimum paid-in capital required by this code a surplus of not less than 100 percent of the minimum paid-in capital required.

As used in this section, surplus means the excess of admitted assets over the sum of (1) liabilities for losses reported, expenses, taxes and all other indebtedness and reinsurance of outstanding risks as provided by law, and (2) paid-in capital, in the case of an insurer issuing or having outstanding shares of capital stock, or (3) the minimum paid-in capital required, in the case of any other insurer.

SEC. 3. The provisions of Section 1 of this act shall be effective only with respect to the issuance of an initial certificate of authority on or after January 1, 1982, with respect to any applicant therefor.

CHAPTER 390

An act to amend Section 1300 of the Evidence Code, and to amend Section 1016 of the Penal Code, relating to criminal pleas.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. The Legislature hereby finds and declares that when possible the criminal justice system should be designed so as to assist the efforts of victims of crime to obtain compensation for their injuries from the criminals who inflicted those injuries. The Legislature further finds and declares that the practice of permitting defendants in criminal cases to enter pleas of nolo contendere and thus avoid the use of the criminal conviction in a civil suit wherein the victim of the crime seeks to recover damages for injuries sustained by the criminal act runs counter to the interest of victims of crime.

SEC. 2. Section 1300 of the Evidence Code is amended to read:

1300. Evidence of a final judgment adjudging a person guilty of a crime punishable as a felony is not made inadmissible by the hearsay rule when offered in a civil action to prove any fact essential to the judgment whether or not the judgment was based on a plea of nolo contendere.

SEC. 3. Section 1016 of the Penal Code is amended to read:

1016. There are six kinds of pleas to an indictment or an information, or to a complaint charging an offense triable in any inferior court:

1. Guilty.

2. Not guilty.

3. Nolo contendere, subject to the approval of the court. The court shall ascertain whether the defendant completely understands that a plea of nolo contendere shall be considered the same as a plea of guilty and that, upon a plea of nolo contendere, the court shall find the defendant guilty. The legal effect of such a plea, to a crime punishable as a felony, shall be the same as that of a plea of guilty for all purposes. In cases other than those punishable as felonies, the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, and factual basis for, the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based.

4. A former judgment of conviction or acquittal of the offense charged.

5. Once in jeopardy.
6. Not guilty by reason of insanity.

A defendant who does not plead guilty may enter one or more of the other pleas. A defendant who does not plead not guilty by reason of insanity shall be conclusively presumed to have been sane at the time of the commission of the offense charged; provided, that the court may for good cause shown allow a change of plea at any time before the commencement of the trial. A defendant who pleads not guilty by reason of insanity, without also pleading not guilty, thereby admits the commission of the offense charged.

CHAPTER 391

An act to add Section 4227.1 to the Business and Professions Code and to amend Section 8659 of the Government Code, relating to pharmacy.

[Approved by Governor July 7, 1982 Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 4227.1 is added to the Business and Professions Code, to read:

4227.1. Notwithstanding the provisions of Section 4227 or any other provision of law, a registered pharmacist in good faith may furnish without prescription a dangerous drug in reasonable quantities during a state of war emergency, a state of emergency, a local emergency, disaster, earthquake, flood, mudslide, explosion, bombing, nuclear attack, or act of God, to further the health and safety of the public. A record containing the date, name and address of the person to whom the drug is furnished, and the name, strength and quantity of the drug furnished shall be maintained. The pharmacist shall communicate this information to the patient's attending physician as soon as possible. Notwithstanding the provisions of Section 4230 or any other provision of law, a person may possess a dangerous drug furnished without prescription pursuant to this section.

SEC. 2. Section 8659 of the Government Code is amended to read:

8659. Any physician or surgeon (whether licensed in this state or any other state), hospital, pharmacist, nurse, or dentist who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for

any injury sustained by any person by reason of such services, regardless of how or under what circumstances or by what cause such injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.

CHAPTER 392

An act to amend Sections 12365 and 12365.5 of, to add Sections 12364.1 and 12365.1 to, and to repeal Section 12365.9 of, the Public Utilities Code, relating to municipal utility district retirement systems.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 12364.1 is added to the Public Utilities Code, to read:

12364.1. The assets of the fund are trust funds and shall be held for the exclusive purpose of providing benefits to participants in the retirement plan and their beneficiaries and defraying reasonable expenses of administering the plan, and shall be invested, whether pursuant to this section or pursuant to other authority:

(a) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(b) By diversifying the investments of the plan so as to minimize the risk of large losses and by maximizing the rate of return, unless under the circumstances it is clearly prudent not to do so.

SEC. 1.5. Section 12365 of the Public Utilities Code is amended to read:

12365. In addition to such other investments as are authorized by this article, the retirement board may in its discretion under the advice of proper counsel invest the assets of the retirement fund in an amount, determined on the basis of cost, not to exceed 60 percent of the assets, in common stock or shares, and not to exceed 5 percent of the assets, in preferred stock or shares, of corporations created or existing under the laws of the United States, or any state, district, or territory thereof; provided that

(a) Such stock is registered on a national securities exchange, as provided in the "Securities Exchange Act of 1934" as amended. Such registration shall not be required with respect to the following stocks:

(1) The common stock of a bank which is a member of the Federal Deposit Insurance Corporation and has capital funds, represented by capital, surplus, and undivided profits, of at least fifty million dollars ($50,000,000);

(2) The common stock of an insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars ($50,000,000);

(3) Any preferred stock.

(b) Such corporation has total assets of at least one hundred million dollars ($100,000,000);

(c) Bonds of such a corporation, if any are outstanding, qualify for investment of the retirement fund, and that there are no arrears of dividend payments on its preferred stock;

(d) Such corporation has paid a cash dividend on its common stock in at least 8 of the 10 years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an earned cash dividend in each of the last three years;

(e) Such investment in any one company may not exceed 5 percent of the common shares outstanding; and

(f) No single common stock investment, based on cost, may exceed 2 percent of the assets of the fund.

SEC. 2. Section 12365.1 is added to the Public Utilities Code, to read:

12365.1. (a) The board may also invest not to exceed 5 percent of the assets of the fund determined on the basis of cost in the common stock or shares of any publicly traded corporations which do not meet some or all of the provisions of subdivisions (a) to (d), inclusive, of Section 12365 provided that the total investment in the common stocks and shares authorized by this subdivision together with the total investment in common stocks and shares of all other corporations authorized by Section 12365 may not exceed 60 percent of the assets of the fund determined on the basis of cost.

(b) The board may also invest not to exceed 0.5 percent of the assets in the fund determined on the basis of cost in any security issued by any corporation or limited partnership, the majority of the assets of which are nonpublicly traded equity instruments, provided that (1) the total investment authorized by this subdivision together with the total investment in common stocks or shares authorized by subdivision (a) may not exceed 5 percent of the assets of the fund determined on the basis of cost and (2) the total investment authorized by subdivision (a) and this subdivision together with the total investment in common stock and shares authorized by Section 12365 may not exceed 60 percent of the assets of the fund determined on the basis of cost.

SEC. 3. Section 12365.5 of the Public Utilities Code is amended to read:

12365.5. The board may also invest in any stocks or shares of a diversified management investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars ($50,000,000); except that the total investment in such stocks and shares, together with stocks and shares of all other corporations, may not exceed 60 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

SEC. 4. Section 12365.9 of the Public Utilities Code is repealed.

SEC. 5. Sections 1, 1.5, 2, 3 and 4 of this act shall become operative only upon the approval of the electors of Senate Constitutional Amendment No. 21 of the 1981–82 Regular Session of the Legislature.

CHAPTER 393

An act to add Section 23356.3 to the Business and Professions Code, relating to wine.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 23356.3 is added to the Business and Professions Code, to read:

23356.3. Notwithstanding any other provision of this division, an out-of-state winegrower, after notification to, and approved by, the department, may furnish American wine which the winegrower produces and bottles for wine tastings sponsored by a private nonprofit organization. This privilege shall be extended to winegrowers in those states which accord California winegrowers a substantially equal reciprocal wine tasting privilege. Certification by an appropriate state official of his or her state's reciprocal wine tasting privilege shall be included with the required notification.

CHAPTER 394

An act to amend Sections 6025 and 6028.2 of the Penal Code, relating to corrections.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

members, one of whom shall be the Secretary of the Youth and Adult Correctional Agency who shall be designated as the chairman, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and eight of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Youth and Adult Correctional Agency, and with the advice and consent of the Senate. There shall be one representative from each of the following categories:

(1) A member of a statewide parole board of this state.

(2) A county sheriff.

(3) A county supervisor or county administrative officer.

(4) A chief probation officer.

(5) An employee of a state correctional facility who is involved in either custody or care and treatment.

(6) An administrator of a local community-based correctional program.

(7) Two public members.

(b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each such member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. The terms of the two persons last appointed as qualified persons, by the Governor with the advice and consent of the Senate, under the provisions of this section as it read prior to January 1, 1977, shall expire on that date.

(c) The board shall select a vice chairman from among its members. Six members of the board shall constitute a quorum.

(d) When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

SEC. 2. Section 6028.2 of the Penal Code is amended to read:

6028.2. The Secretary of the Youth and Adult Correctional Agency may furnish for the use of any such commission such facilities, supplies, and personnel as may be available therefor.

CHAPTER 395

An act to amend Section 976 of the Penal Code, relating to arraignments.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 976 of the Penal Code is amended to read:

976. (a) When the accusatory pleading is filed, the defendant shall be arraigned thereon before the court in which it is filed, unless the action is transferred to some other court for trial. However, within any county, if the defendant is in custody, upon the approval of both the presiding judge of the court in which the accusatory pleading is filed and the presiding judge of the court nearest to the place in which he or she is held in custody the arraignment may be before the court nearest to that place of custody.

(b) A defendant arrested in another county shall have the right to be taken before a magistrate in the arresting county for the purpose of being admitted to bail, as provided in Section 821 or 822. The defendant shall be informed of this right.

(c) Prior to being taken from the place where he or she is in custody to the place where he or she is to be arraigned, the defendent shall be allowed to make three completed telephone calls, at no expense to the defendant, in addition to any other telephone calls which the defendant is entitled to make pursuant to law.

CHAPTER 396

An act to amend Section 987.88 of the Military and Veterans Code, relating to veterans' farm and home purchase.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 987.88 of the Military and Veterans Code is amended to read:

987.88. In the event the department enters into a master agreement with one or more insurance companies to provide life or disability insurance coverage for the purchasers of farms and homes from the department, the master agreement shall provide that the life insurance will be offered to purchasers who are disabled solely

as a result of their qualifying military service and to nondisabled purchasers on an equal basis and that no purchaser shall be denied coverage solely because that purchaser has a qualifying military service-connected disability at the time of application. Notwithstanding Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code, any such life or disability insurance shall be a form of group life or group disability insurance.

CHAPTER 397

An act to amend Sections 5544.1 and 5544.2 of, and to add Section 5563.5 to, the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 5544.1 of the Public Resources Code, as amended by Chapter 71 of the Statutes of 1982, is amended to read:

5544.1. Notwithstanding any other provisions of this article, the board may borrow money by issuance of promissory notes or other evidences of indebtedness in an amount, or of a value, not exceeding in the aggregate at any one time the greater of 5 percent of the total of the district's general fund and development fund budgets for the year in which the loan is made, or the sum of five hundred thousand dollars ($500,000), to be used for any revenue-producing purpose for which the district is authorized to expend funds.

A district shall not exercise the borrowing authority conferred by this section if the district, at any time during the previous two years, has not met the loan repayment requirements of this section and the repayment provisions set forth in the promissory note or other evidence of indebtedness issued for a loan entered into pursuant to this section. A district shall not expend in any one year any amount of money in excess of what it collects in property taxes, state and federal subventions, grants, loans, fees, gifts, bequests, or income from other sources.

Indebtedness incurred pursuant to this section shall be repaid in approximately equal annual installments during a period not to exceed five years from June 30th of the fiscal year in which it is incurred and shall bear interest at a rate not exceeding 10 percent per annum, or the rate allowed under Section 53531 of the Government Code, if higher, payable annually or semiannually or in part annually and in part semiannually.

Each indebtedness incurred under this section shall be authorized by a resolution of the board unanimously adopted, and shall be evidenced by a promissory note or contract signed by the president of the board and attested by the secretary or treasurer. One of the two signatures may be by facsimile reproduction.

The indebtedness authorized to be incurred by this section shall be in addition to, and the provisions of this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

Nothing herein shall be construed so as to limit or restrict the authority of the district to issue promissory notes or deeds of trust in the acquisition of real property or the exercise of its right of eminent domain subject to the limitations in Section 5568.

Nothing herein shall limit the authority of the district to borrow pursuant to Section 5544.3.

SEC. 2. Section 5544.2 of the Public Resources Code is amended to read:

5544.2. (a) A district may acquire all necessary and proper lands and facilities, or any portion thereof, by means of a plan to borrow money or by purchase on contract.

(b) The amount of indebtedness to be incurred shall not exceed an amount equal to the anticipated tax income for the next four-year period derived pursuant to Section 5545 or the anticipated tax income for the next 10-year period derived pursuant to Section 50077 of the Government Code, or both; or, with respect to the East Bay Regional Park District only, the anticipated tax income for the next two-year period derived pursuant to Sections 5545 and 5545.5 or the anticipated tax income for the next 10-year period derived pursuant to Section 50077 of the Government Code, or both. All indebtedness which is incurred on or after July 1, 1982, pursuant to this section shall be repaid in approximately equal annual installments during a period not to exceed 10 years from the date on which it is incurred and shall bear interest at a rate not exceeding 10 percent per annum, or the rate allowed pursuant to Section 53531 of the Government Code, if higher, payable annually or semiannually or in part annually and in part semiannually. Each indebtedness shall be authorized by a resolution adopted by the affirmative votes of at least two-thirds of the members of the district board and shall be evidenced by a promissory note or contract signed by the president of the board and attested by the secretary or treasurer. One of the two signatures may be by facsimile reproduction. At the time of making the general tax levy after incurring each indebtedness and annually thereafter until the indebtedness is paid or until there is a sum in the treasury set apart for that purpose sufficient to meet all payments of principal and interest on the indebtedness as they become due, a portion of the taxes levied and collected pursuant to Section 50077 of the Government Code, if any, and pursuant to Sections 5545 and 5545.5

shall be levied and collected and set aside sufficient to pay the interest on the indebtedness and the part of the principal that will become due before the proceeds of a tax levied at the next general tax levy will be available.

(c) The indebtedness authorized to be incurred by this section shall be in addition to, and the provisions of this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

SEC. 3. Section 5563.5 is added to the Public Resources Code, to read:

5563.5. Notwithstanding Sections 5540 and 5563, the Board of Directors of the Midpeninsula Regional Open-Space District may, without obtaining the consent of the voters, lease real property for a term not exceeding 50 years. A lease entered into pursuant to this section shall be authorized by a resolution adopted by the affirmative votes of at least two-thirds of the members of the board, upon making an express finding that the purpose of the lease is for park or open-space purposes, or for an historic preservation, recreation, or agricultural purpose which is compatible with public use and enjoyment of the real property.

CHAPTER 398

An act to amend Section 18973 of the Government Code, relating to state civil service.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 18973 of the Government Code is amended to read:

18973. In the case of all other entrance examinations, a veteran with 30 days or more of service and widows or widowers of veterans who become eligible for certification from eligible lists by attaining the passing mark established for the examination, shall be allowed one of the following additional credits:

(a) Disabled veterans, 15 points.

(b) All other veterans, widows or widowers of veterans, and spouses of 100 percent disabled veterans, 10 points.

For the purpose of this section, "veteran" means any person who has served full time for 30 days or more in the armed forces in time of war or in time of peace in a campaign or expedition for service in which a medal has been authorized by the government of the United

States, or during the period September 16, 1940, to January 31, 1955, or who has served at least 181 consecutive days since January 31, 1955, and who has been discharged or released under conditions other than dishonorable, but does not include any person who served only in auxiliary or reserve components of the armed forces whose service therein did not exempt him or her from the operation of the Selective Training and Service Act of 1940.

For the purpose of this section the termination of World War II shall be considered as of midnight, December 31, 1946.

For the purpose of this section: "disabled veteran" means any veteran as defined herein who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of his or her service; and "100 percent disabled veteran" means any veteran as defined herein who is currently declared by the United States Veterans Administration to be 100 percent disabled as a result of his or her service. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

CHAPTER 399

An act to amend Sections 4632 and 4635 of the Welfare and Institutions Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 4632 of the Welfare and Institutions Code is amended to read:

4632. If the department and a regional center are unable to resolve any contract dispute, including disputes between the regional center and the department over whether a contract should be renewed or continued, either party may request the state council to review and advise with regard to the issues in dispute. The state council shall review and shall provide its advice in writing within 30 days of receiving a request for such review and advice. Copies of the state council's advice shall be transmitted to the Director of Developmental Services and the governing board of the regional center. The state council's advice shall not be binding upon either party.

SEC. 2. Section 4635 of the Welfare and Institutions Code is amended to read:

4635. If any regional center finds that it is unable to comply with the requirements of this division or its contract with the state, the regional center shall be responsible for informing the department

immediately that it does not expect to fulfill its contractual obligations. Failure to provide such notification to the department in a timely manner shall constitute grounds for possible revocation or nonrenewal of the contract. If any regional center makes a decision to cancel or not renew its contract with the department, such regional center shall give a minimum of 90 days' written notice of its decision.

If the department finds that any regional center is not fulfilling its contractual obligations, the department shall make reasonable efforts to resolve the problem with the cooperation of the regional center, including the provision of technical assistance to the regional center or renegotiation of the contract.

If the department finds that any regional center continues to fail in fulfilling its contractual obligations after reasonable efforts have been made, and finds that other regional centers are able to fulfill similar obligations under similar contracts, and finds that it will be in the best interest of the persons being served by the regional center, the department shall take steps to terminate the contract and to negotiate with another governing board to provide regional center services in the area. These findings may also constitute grounds for possible nonrenewal of the contract in addition to, or in lieu of, other grounds.

If the department makes a decision to cancel or not renew its contract with the regional center, the department shall give a minimum of 90 days' written notice of its decision, unless it has determined that the 90 days' notice would jeopardize the health or safety of the regional center's clients, or constitutes willful misuse of state funds, as determined by the Attorney General. Within 14 days after receipt of the notice, the regional center may make a written protest to the department of the decision to terminate or not renew the contract. In such case, the department shall: (1) arrange to meet with the regional center and the appropriate area board within 30 days after receipt of the protest to discuss the decision and to provide its rationale for the termination or nonrenewal of the contract, and to discuss any feasible alternatives to termination or nonrenewal; and (2) initiate the procedures for resolving disputes contained in Section 4632. To the extent allowable under state and federal law, any outstanding audit exceptions or other deficiency reports, appeals, or protests shall be made available and subject to discussion at the meeting arranged under clause (1).

When terminating or not renewing a regional center contract and negotiating with another governing board for a regional center contract, the department shall:

(a) Notify the area board, State Council on Developmental Disabilities, all personnel employed by the regional center, all vendors of service to the regional center, and all clients of the regional center informing them that it proposes to terminate or not renew the contract with the regional center, and that the state will continue to fulfill its obligations to assure a continuity of services, as

required by state law, through a contract with a new governing board.

(b) Request the area board and any other community agencies to assist the state by locating or organizing a new governing board to contract with the department to operate the regional center in the area. Area boards shall cooperate with the department when such assistance is requested.

(c) Provide such assistance as may be required to assure that the transfer of responsibility to a new regional center will be accomplished with minimum disruption to the clients of the service program.

In no event, shall the procedures for termination or nonrenewal of a regional center contract limit or abridge the state's authority to contract with any duly authorized organization for the purpose of service delivery, nor shall these procedures be interpreted to represent a continued contractual obligation beyond the limits of any fiscal year contract.

The amendments made to this section by the Statutes of 1982 shall apply to all contracts that were operative as of July 1, 1982.

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

In order to ensure that contracts in dispute between regional centers and the State Department of Developmental Services are subject to the due process procedures which currently do not exist in statute, but are provided for in this act, it is necessary that this act take effect immediately.

CHAPTER 400

An act to amend Sections 1340 and 23511.1 of the Elections Code, relating to elections.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 1340 of the Elections Code is amended to read:

1340. Any local, special, or consolidated election may be conducted wholly by mail provided that:

(a) The governing body of the local agency authorizes the use of mailed ballots for the election; and

(b) The election does not occur on the same date as a statewide direct primary election or statewide general election; and

(c) The election is one of the following:

(1) An election in which no more than 1,000 registered voters are eligible to participate.

(2) A maximum property tax rate election as provided for in Section 2287 of the Revenue and Taxation Code.

(3) An election on a measure or measures restricted to (A) the imposition of special taxes, or (B) expenditure limitation overrides, or (C) both (A) and (B), in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county clerk to the Secretary of State.

(4) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code.

(5) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

(6) An election of the Aliso Water Management Agency, or its affected member agencies, pursuant to Sections 13416 and 13417 of the Water Code.

(7) An election of the San Jacinto Mountain Area Water Study Agency pursuant to Sections 13416 and 13417 of the Water Code.

SEC. 2. Section 23511.1 of the Elections Code is amended to read:

23511.1. Notwithstanding any other provisions of law and regardless of the number of eligible voters within its boundaries a district may, by resolution of its governing board, conduct any election by all-mailed ballots pursuant to Chapter 5 (commencing with Section 1340) of Division 2.

An election conducted pursuant to the provisions of this section shall be held on a date prescribed in Section 23509.5 or on any other date other than an established election date.

CHAPTER 401

An act to add Section 18979 to the Government Code, relating to state government.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 18979 is added to the Government Code, to read:

18979. (a) In making appointments to positions performing the duties of disabled veterans' outreach program representatives in the disabled veterans' outreach program or successor program of the Employment Development Department, appointments shall be made in the following order of preference:

(1) A disabled veteran of the Vietnam era.
(2) Any other disabled veteran.
(3) Any veteran.
(b) A person who does not meet the above criteria shall not be appointed to the position of disabled veterans' outreach program representative.

CHAPTER 402

An act to amend Sections 4454 and 40610 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 4454 of the Vehicle Code is amended to read:

4454. (a) Every owner upon receipt of a registration card shall maintain the same or a facsimile copy thereof with the vehicle for which issued.

(b) The provisions of this section do not apply when a registration card is necessarily removed from the vehicle for the purpose of application for renewal or transfer of registration.

(c) Any violation of this section shall be cited in accordance with the provisions of Section 40610.

SEC. 2. Section 40610 of the Vehicle Code is amended to read:

40610. (a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and all of the conditions set forth in subdivision (b) are met and the investigating officer decides to take enforcement action, he may prepare, in triplicate, and the violator shall sign, a written notice containing his or her promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(2) If any person is arrested for a violation of Section 4454, and all of the conditions set forth in subdivision (b) are met, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing his or her promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. The notice issued under this paragraph may be issued on a notice to appear, as specified in Section 40522.

(b) Use of the notice to correct violation, as provided by this section, authorized when all of the following conditions exist:

(1) The violation does not evidence fraud or persistent neglect.

(2) The violation has not presented and does not present an

immediate safety hazard.

(3) The alleged violator agrees to, and is able to, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) are not met, the investigating officer may issue a notice to appear in accordance with Article 2 (commencing with Section 40500) of this chapter, or take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 403

An act to amend Sections 270.05, 270.10, 270.103, 270.11, and 270.15 of the Military and Veterans Code, relating to the California National Guard.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 270.05 of the Military and Veterans Code is amended to read:

270.05. (a) No benefits shall be awarded pursuant to this article nor application therefor accepted until on and after January 1, 1980. Persons becoming members on and after January 1, 1979, shall, to be eligible for benefits pursuant to this article, be enlisted or commissioned for a period of not less than six years and shall have not less than one year of satisfactory service at the time of application for benefits.

(b) Members as of January 1, 1979, shall, to be eligible for benefits pursuant to this article, have not less than one year of satisfactory service at the time of application and shall extend their commitment for the minimum amount of time prescribed by federal law or regulation.

(c) No member shall be eligible for benefits pursuant to this article who is presently receiving benefits pursuant to the Veterans' Farm and Home Purchase Act of 1943 (Article 3 (commencing with

Section 985) of Chapter 6 of Division 4) or the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4).

(d) Members who either have been honorably discharged from any branch of the United States Armed Forces or have served in the California National Guard for 10 or more years, and who otherwise qualify under this section, shall be eligible for benefits pursuant to this article after 90 days of satisfactory service at the time of application for benefits.

SEC. 2. Section 270.10 of the Military and Veterans Code is amended to read:

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

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

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

(c) The sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements does not exceed fifty-five thousand dollars ($55,000) or, for members who qualify under subdivision (d) of Section 270.05, not to exceed seventy-five thousand dollars ($75,000).

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

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

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

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

or labor on the jobs.

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

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

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

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

SEC. 3. Section 270.103 of the Military and Veterans Code is amended to read:

270.103. The department may acquire a leasehold interest in trust land and contract with an Indian member as provided in Sections 270.101 and 270.102 upon the terms agreed, if:

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

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

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed forty-three thousand dollars ($43,000) or, for members who qualify under subdivision (d) of Section 270.05, not to exceed fifty-five thousand dollars ($55,000).

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

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

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

(g) The Indian member has placed in escrow all sums of money to be advanced by the Indian member where the cost is in excess of

the maximum that may be expended by the department.

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

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

SEC. 4. Section 270.11 of the Military and Veterans Code is amended to read:

270.11. The department may purchase property, subject to a participation contract providing for a loan term of not less than 23 years. In no event shall the purchase price plus the participation contract exceed fifty-five thousand dollars ($55,000) or, for members who qualify under subdivision (d) of Section 270.05, not to exceed seventy-five thousand dollars ($75,000) or equal more than 95 percent of the market value of the property as determined by department appraisal, whichever is the lower amount.

SEC. 5. Section 270.15 of the Military and Veterans Code is amended to read:

270.15. The purchase price of a home to the department shall not exceed fifty-five thousand dollars ($55,000) or, for members who qualify under subdivision (d) of Section 270.05, not to exceed seventy-five thousand dollars ($75,000), except that the purchase price of a mobilehome, as defined in subdivision (k) of Section 270.03, to the department shall not exceed thirty thousand dollars ($30,000), and a member purchasing the home may advance, subject to Section 270.14, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 270.19 to add to the purchase price of the home in fixing the selling price thereof to the member. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred twenty thousand dollars ($120,000), and a member purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 270.19 to add to such purchase or contract price to the department in fixing the selling price of the farm to the member.

CHAPTER 404

An act to amend Section 2416 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 2416 of the Vehicle Code is amended to read:

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a constable, deputy constable, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to such person a publicly owned authorized emergency vehicle.

(2) Any vehicle owned and operated by a public utility, used primarily to accomplish emergency repairs to utility facilities or used primarily by railroad policemen, who are commissioned by the Governor, in the performance of their duties.

(3) Firefighting equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Any vehicle owned and operated by any fire company organized pursuant to Part 4 (commencing with Section 14825) of the Health and Safety Code.

(b) Privately owned ambulances may be operated as emergency vehicles only under a license issued in accordance with the provisions of Chapter 2.5 (commencing with Section 2500) of this division.

(c) The commissioner may adopt and enforce regulations to implement this section.

(d) Violation of any regulation adopted by the commissioner

pursuant to this section is a misdemeanor.

CHAPTER 405

An act to add Section 1182.7 to the Labor Code, relating to labor.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 1182.7 is added to the Labor Code, to read:

1182.7. (a) The Legislature finds that the time permitted the Industrial Welfare Commission to consider petitions, including, but not limited to, daily overtime compensation petitions that are to be given priority attention by the commission pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated and unwarranted delays in the review and possible modification of applicable commission orders. The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these delays by the enactment of special commission review procedures that augment, and do not limit in any way, the rights and privileges of parties before the Industrial Welfare Commission under this chapter.

(b) Notwithstanding any other provisions of this chapter to the contrary, if a labor organization or a trade association recognized in the health care industry files or has filed a petition with the commission that requests an amendment to an order of the commission that would directly regulate only the health care industry, the petitioner may request that the ordinary procedure established by this chapter for the review of petitions of this nature not be used and that the procedure specified in subdivisions (c) and (d) be followed instead. If such a request is made by the petitioner, the commission shall be required to follow the procedure specified in subdivisions (c) and (d).

(c) Upon the filing of a request under subdivision (b), the procedure to revise an order of the commission provided in Sections 1178 to 1182, inclusive, shall be waived. In lieu of such procedure, the commission shall propose the adoption or rejection of the petition, in whole or in part, without appointing a wage board. The commission shall make its proposal within 45 days of the date the petition is originally filed.

The commission shall thereafter publish its proposed action in the manner provided in Section 1181 and shall conduct hearings on its proposal in the manner specified in subdivision (c) of Section 1178.5. However, the hearings shall be conducted within 90 days of the date the petition is originally filed.

(d) Not more than 30 days following the hearings specified in

subdivision (c), the commission shall take final action with respect to its proposal. No later than 15 days following final action, notice of the action taken shall be given in the manner provided for in Sections 1182.1 and 1183. Any action adopting, amending, or repealing an order of the commission pursuant to this section shall take effect 60 days following the date of this notice.

CHAPTER 406

An act to add Sections 6011.1 and 6012.1 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 6011.1 is added to the Revenue and Taxation Code, to read:

6011.1. (a) Notwithstanding Section 6011, "sales price" from the sale of tangible personal property by consumer cooperatives, as defined in subdivision (b), shall not include the value of initial or periodic membership fees and the value of labor performed in lieu of, or as part of, monthly membership fees; provided, the exclusion authorized by this section shall not be interpreted to permit consumer cooperatives to exclude from "sales price" the cost of the property sold.

(b) As used in this section, consumer cooperative means a corporation or group of persons composed of ultimate producers or consumers, or both, organized for the purpose of conducting any lawful business primarily for the mutual benefit of its shareholders who may be natural or legal persons, and the earnings, savings, or benefits of which are used for the general welfare of the shareholders or patrons or are distributed in the form of cash, stock, evidences of indebtedness, goods, or services, proportionately and equitably among the persons for which it does business upon the basis of the amount of their transactions or participation in production, or both. However, any such corporation may pay out of its net surplus earnings, savings, or benefits, not to exceed 5 percent interest upon its capital stock.

SEC. 1.5. Section 6012.1 is added to the Revenue and Taxation Code, to read:

6012.1. (a) Notwithstanding Section 6012, "gross receipts" from the sale of tangible personal property by consumer cooperatives, as defined in subdivision (b), shall not include the value of initial or periodic membership fees and the value of labor performed in lieu of, or as part of, monthly membership fees; provided, the exclusion

authorized by this section shall not be interpreted to permit consumer cooperatives to exclude from "gross receipts" the cost of the property sold.

(b) As used in this section, consumer cooperative means a corporation or group of persons composed of ultimate producers or consumers, or both, organized for the purpose of conducting any lawful business primarily for the mutual benefit of its shareholders who may be natural or legal persons, and the earnings, savings, or benefits of which are used for the general welfare of the shareholders or patrons or are distributed in the form of cash, stock, evidences of indebtedness, goods, or services, proportionately and equitably among the persons for which it does business upon the basis of the amount of their transactions or participation in production, or both. However, any such corporation may pay out of its net surplus earnings, savings, or benefits, not to exceed 5 percent interest upon its capital stock.

SEC. 2. The Legislature finds and declares that this act is declaratory of, and not a change in, existing law. It is the intent of the Legislature in enacting this act to clarify the existing law and to affect all applicable pending proceedings.

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

Ambiguity in existing law has caused uncertainty for taxpayers and administrative agencies with respect to the imposition of the sales tax on transactions involving consumer cooperatives; thus, in order to clarify the law at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 407

An act to amend Sections 48645, 48645.1, 48645.5, and 48645.6 of the Education Code, relating to juvenile court schools.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 48645 of the Education Code is amended to read:

48645. The purpose of this article is to provide for the administration and operation of public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, or juvenile camps established pursuant to Article 14 (commencing with Section 850) and Article 15 (commencing with Section 880) of Chapter 2 of Division 2 of the Welfare and Institutions Code or any group home

with an acceptable onsite school structure and housing 25 or more children placed pursuant to Sections 362, 727, and 730, of the Welfare and Institutions Code, and to provide the juvenile court school pupils therein detained with quality education and training.

Nothing in this section shall be construed as indicating that it is the intent of the Legislature to prevent juvenile court school pupils who are housed in group homes from enrolling in regular public schools, or that it is the intent of the Legislature to transfer the responsibility for any costs associated with the operation of group homes to the counties.

SEC. 2. Section 48645.1 of the Education Code is amended to read:

48645.1. Public schools or classes in any juvenile hall, juvenile home, day center, juvenile ranch, or juvenile camp established in accordance with Article 14 (commencing with Section 850) and Article 15 (commencing with Section 880) of Chapter 2 of Division 2 of the Welfare and Institutions Code or any group home with an acceptable onsite school structure housing 25 or more children who are placed in accordance with the provisions of Sections 362, 727, or 730 of the Welfare and Institutions Code shall be known as juvenile court schools.

SEC. 3. Section 48645.5 of the Education Code is amended to read:

48645.5. Each public school district shall accept for credit any coursework satisfactorily completed by a student while in a juvenile court school. Such coursework shall be transferred by means of the standard state transcript. If a student completes the graduation requirements of his or her school district of residence while being detained, the school district of residence shall issue to the student a diploma from the school he or she last attended before detention or in the alternative, the county superintendent of schools may issue the diploma.

SEC. 4. Section 48645.6 of the Education Code is amended to read:

48645.6. Plans for any juvenile court school classrooms, offices, or any other school structures in any juvenile hall, juvenile home, day center, juvenile ranch, or juvenile camp shall be approved by the county board of education. Upon approval of the board of supervisors and the county board of education, the cost of such structures shall be a required charge against the funds of the county.

The cost of constructing or otherwise providing classrooms, offices, or other onsite school structures in group homes or other agencies housing children described in Sections 362, 727, and 730 of the Welfare and Institutions Code shall be the responsibility of the private agency. This contruction shall not entitle private agencies to an increase in the foster care reimbursement rates available from the State Department of Social Services or any other state agency. It is the intent of the Legislature that nothing in this section shall be construed to preclude the county boards of education or the

governing boards of school districts from entering into a contractual agreement providing compensation to group homes for the use of classrooms, offices, or other onsite school structures.

CHAPTER 408

An act to amend Section 1418.5 of the Health and Safety Code, relating to health facilities.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 1418.5 of the Health and Safety Code is amended to read:

1418.5. No regulation adopted with respect to skilled nursing facilities or intermediate care facilities shall prohibit patients in the facility from storing nonprescription or topical ophthalmic medications at their bedside unless contraindicated by the patient's attending physician or the facility.

CHAPTER 409

An act to amend Section 11000 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Section 11000 of the Welfare and Institutions Code is amended to read:

11000. The provisions of law relating to a public assistance program shall be fairly and equitably construed to effect the stated objects and purposes of the program.

CHAPTER 410

An act to add Section 17739 to, and to add Chapter 21.5 (commencing with Section 17680) to Part 10 of, the Education Code, relating to providing for the preparation, issuance, and sale of bonds of the State of California to create a fund for school building lease-purchase; and providing for the submission of the measure to

the people at the 1982 General Election, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 7, 1982.]

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

SECTION 1. Chapter 21.5 (commencing with Section 17680) is added to Part 10 of the Education Code, to read:

CHAPTER 21.5. STATE SCHOOL BUILDING LEASE-PURCHASE BOND LAW OF 1982

17680. This act may be cited as the State School Building Lease-Purchase Bond Law of 1982.

17681. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and such law.

17682. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means the State School Building Finance Committee created by Section 15909.

(b) "Board" means the State Allocation Board.

(c) "Fund" means the State School Building Lease-Purchase Fund.

17683. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Lease-Purchase Law of 1976, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of five hundred million dollars ($500,000,000) in the manner provided herein, but not in excess thereof.

17684. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for

the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates of maturity of said principal and interest in each fiscal year, there shall be transferred to the General Fund in the State Treasury, all of the money in the fund, not in excess of the principal of and interest on the said bonds then due and payable, except as herein provided for the prior redemption of said bonds, and, in the event such money so returned on said dates of maturity is less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17685. All money deposited in the fund under Section 17732 of this code and pursuant to the provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, shall be available only for transfer to the General Fund, as provided in Section 17684. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by such transfer of funds.

17686. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 17687 which sum is appropriated without regard to fiscal years.

17687. For the purposes of carrying out the provisions of this chapter the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

17688. Upon request of the board, supported by a statement of

the apportionments made and to be made under Sections 17700 to 17746, inclusive, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such apportionments, and, if so, the amount of bonds then to be issued and sold. One hundred twenty-five million dollars ($125,000,000) shall be available for apportionment on December 1, 1982, and fifteen million dollars ($15,000,000) shall become available for apportionment on the fifth day of each month thereafter until a total of five hundred million dollars ($500,000,000) has become available for apportionment. Successive issues of bonds may be authorized and sold to make such apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

17689. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, such computation to be made on a 360-day-year basis.

17690. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

17691. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17686 to pay principal and interest on bonds.

17692. With respect to the proceeds of bonds authorized by this chapter, all the provisions of Sections 17700 to 17746, inclusive, shall apply.

17693. Out of the first money realized from the sale of bonds under this act, there shall be repaid any moneys advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act.

SEC. 2. Section 17739 is added to the Education Code, to read:

17739. Not more than one hundred fifty million dollars ($150,000,000) of the moneys authorized by Chapter 21.5 (commencing with Section 17680) shall be reserved for the reconstruction or modernization of facilities within the meaning of this chapter.

SEC. 3. Section 1 of this act shall take effect upon the adoption by the people of the State School Building Lease-Purchase Bond Law of 1982, as set forth in Section 1 of this act. Sections 4 to 6, inclusive, of this act contain provisions relating to and necessary for the submission of the State School Building Lease-Purchase Bond Law of 1982 to the people, and for returning, canvassing, and proclaiming the votes thereon, and shall take effect immediately.

SEC. 4. Notwithstanding Section 3525 of the Elections Code or

any other provision of law, the State School Building Lease-Purchase Bond Law of 1982, as set forth in Section 1 of this act, shall be submitted to the people of the State of California for their ratification at the next general election, to be held November 2, 1982, and shall appear as the first proposition on the ballot, provided that this act is chaptered on or before July 9, 1982.

SEC. 5. All ballots at said election shall have printed thereon and in a square thereof, the words: "For the State School Building Lease-Purchase Bond Law of 1982," and in the same square under said words the following in 8-point type: "This act provides for a bond issue of five hundred million dollars ($500,000,000) to provide capital outlay for construction or improvement of public schools." In the square immediately below the square containing such words, there shall be printed on said ballot the words: "Against the State School Building Lease-Purchase Bond Law of 1982," and in the same square immediately below said words, in 8-point type shall be printed "This act provides for a bond issue of five hundred million dollars ($500,000,000) to provide capital outlay for construction or improvement of public schools." Opposite the words "For the State School Building Lease-Purchase Bond Law of 1982," and "Against the State School Building Lease-Purchase Bond Law of 1982," there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against said act, and those voting for said act shall do so by placing a cross opposite the words "For the State School Building Lease-Purchase Bond Law of 1982," and those voting against the said act shall do so by placing a cross opposite the words "Against the State School Building Lease-Purchase Bond Law of 1982." Provided, that where the voting of said election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, such use of such voting machines and the expression of the voters' choice by means thereof, shall be deemed to comply with the provisions of this section.

SEC. 6. The votes cast for or against the State School Building Lease-Purchase Bond Law of 1982 shall be counted, returned, and canvassed and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appears that said act shall have received a majority of all the votes cast for and against it at said election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrepealable until the principal and interest of the liabilities herein created shall be paid and discharged; but if a majority of the votes cast as aforesaid are against this act then the same shall be and become void.

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

In order to permit the school building lease-purchase bonds authorized by this act to be issued in a timely manner following

approval by the electorate, it is necessary that this act take effect immediately.

CHAPTER 411

An act to add Sections 575.5 and 1006.5 to the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 575.5 is added to the Code of Civil Procedure, to read:

575.5. (a) The Judicial Council shall adopt a standard of judicial administration governing the appearance of counsel by telephone at any pretrial, trial setting, or arbitration determination conference in a civil case.

(b) The standard of judicial administration shall provide that counsel for a party may appear by telephone at such a conference unless it is combined with a settlement conference or the court orders the personal appearance of counsel.

(c) Within six months after the Judicial Council has adopted that standard of judicial administration, the superior court of each county shall advise the Judicial Council whether it will incorporate the standard, a modified version thereof, or not provide for the appearance of counsel by telephone in its local rules.

SEC. 2. Section 1006.5 is added to the Code of Civil Procedure, to read:

1006.5. (a) The Judicial Council shall adopt a standard of judicial administration governing the appearance of counsel by telephone at any hearing of a demurrer, an order to show cause, or a motion heard before the action is called for trial.

(b) The standard of judicial administration shall provide that counsel for a party to a civil action may appear by telephone at any of those hearings unless, the action or proceeding is one filed pursuant to the Family Law Act, any party notices an intent to present oral testimony, or the court orders the personal appearance of counsel.

(c) Within six months after the Judicial Council has adopted that standard of judicial administration, the superior court of each county shall advise the Judicial Council whether it will incorporate the standard, a modified version thereof, or not provide for the appearance of counsel by telephone in its local rules.

CHAPTER 412

An act to amend Sections 7823, 7824, and 7887 of the Business and Professions Code, relating to geologists and geophysicists, and making an appropriation therefor.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 7823 of the Business and Professions Code is amended to read:

7823. The board shall have the authority to appoint committees as required or as deemed advisable to perform such duties as the board may direct. Such committees may be composed of public members of the board and persons registered under this chapter. However, a majority of the membership of each committee shall be made up of persons registered under this chapter.

Membership on all such committees is at the pleasure of the board.

No member of any such committee shall receive any other compensation than his necessary expenses, as approved by the board, connected with the performance of his duties as a member of any such committee.

SEC. 2. Section 7824 of the Business and Professions Code is amended to read:

7824. The board shall establish such professional affairs committees, as needed, to represent each of the specialties into which the board determines certification of registration may be divided. Each such committee shall establish qualifications, which shall include a written examination, for certification in its specialty, and shall establish a definition of that specialty, subject to approval of the board; and shall advise the board on professional affairs in which the committee is concerned. The committees may be composed of public members of the board and persons registered under this chapter. However, a majority of the membership of each committee shall be made up of geologists or geophysicists or both who are certified or qualified in the particular specialty represented by the committee in question. Definition of specialties shall be substantially the same as are on the effective date of this chapter in use in local ordinances throughout the state, subject to the approval of the board. Qualifications for certification in a specialty shall be substantially the same as, but no less than, those in existence under local ordinances throughout the state.

SEC. 3. Section 7887 of the Business and Professions Code is amended to read:

7887. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a

geologist or a geophysicist or as a specialty geologist or a specialty geophysicist at not more than sixty dollars ($60).

(b) The registration fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates which will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The duplicate certificate fee at not more than six dollars ($6).

(d) The temporary registration fee for a geologist or for a geophysicist at not more than eighty dollars ($80).

(e) The renewal fee for a geologist or for a geophysicist shall be fixed by the board at not more than one hundred dollars ($100).

(f) The renewal fee for a specialty geologist or for a specialty geophysicist at not more than twenty dollars ($20).

(g) Notwithstanding Section 163.5, the delinquency fee for a certificate is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date.

CHAPTER 413

An act to amend Sections 66605, 66620, 66630, and 66647 of the Government Code, and to amend Sections 29405, 29605, and 29612 of the Public Resources Code, relating to the San Francisco Bay.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 66605 of the Government Code is amended to read:

66605. The Legislature further finds and declares:

(a) That further filling of San Francisco Bay and certain waterways specified in subdivision (e) of Section 66610 should be authorized only when public benefits from fill clearly exceed public detriment from the loss of the water areas and should be limited to water-oriented uses (such as ports, water-related industry, airports, bridges, wildlife refuges, water-oriented recreation and public assembly, water intake and discharge lines for desalinization plants and power generating plants requiring large amounts of water for cooling purposes) or minor fill for improving shoreline appearance or public access to the bay;

(b) That fill in the bay and certain waterways specified in subdivision (e) of Section 66610 for any purpose should be authorized only when no alternative upland location is available for such purpose;

(c) That the water area authorized to be filled should be the minimum necessary to achieve the purpose of the fill;

(d) That the nature, location and extent of any fill should be such that it will minimize harmful effects to the bay area, such as, the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources;

(e) That public health, safety and welfare require that fill be constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters;

(f) That fill should be authorized when the filling would, to the maximum extent feasible, establish a permanent shoreline;

(g) That fill should be authorized when the applicant has such valid title to the properties in question that he may fill them in the manner and for the uses to be approved.

SEC. 2. Section 66620 of the Government Code is amended to read:

66620. The San Francisco Bay Conservation and Development Commission is hereby created. The commission shall consist of 27 members, as follows:

(a) One member appointed by the Division Engineer, United States Army Engineers, South Pacific Division, from his or her staff.

(b) One member appointed by the Administrator of the United States Environmental Protection Agency, from his or her staff.

(c) One member appointed by the Secretary of Business and Transportation, from his or her staff.

(d) One member appointed by the Director of Finance, from his or her staff.

(e) One member appointed by the Secretary of Resources, from his or her staff.

(f) One member appointed by the State Lands Commission, who shall be a member of that commission or from its staff.

(g) One member appointed by the San Francisco Bay Regional Water Quality Control Board, who shall be a member of that board.

(h) Nine county representatives consisting of one member of the board of supervisors representative of each of the nine San Francisco Bay area counties, appointed by the board of supervisors in each county. Each county representative shall be a supervisor representing a supervisorial district which includes within its boundaries lands lying within San Francisco Bay.

(i) Four city representatives appointed by the Association of Bay Area Governments from among the residents of the bayside cities in each of the following areas:

(1) North Bay—Marin, Sonoma, Napa, and Solano Counties;

(2) East Bay—Contra Costa County (west of Pittsburg) and Alameda County north of the southern boundary of Hayward;

(3) South Bay—Alameda County south of the southern boundary of Hayward, Santa Clara County, and San Mateo County south of the northern boundary of Redwood City;

(4) West Bay—San Mateo County north of the northern boundary of Redwood City, and the City and County of San Francisco.

Each city representative shall be an elected city official.

(j) Seven representatives of the public, who shall be residents of the San Francisco Bay area. Five of the representatives shall be appointed by the Governor and their appointments shall be subject to confirmation by the Senate. One of the representatives shall be appointed by the Committee on Rules of the Senate, and one by the Speaker of the Assembly.

SEC. 2.5. Section 66630 of the Government Code is amended to read:

66630. The commission shall make a continuing review of all the matters referred to in Section 66603 and Section 66651.

SEC. 3. Section 66647 of the Government Code is amended to read:

66647. (a) There is in the State Treasury a Bay Fill Clean-up and Abatement Fund. All moneys from the following sources are to be paid into the fund:

(1) All moneys appropriated by the Legislature for the fund.

(2) All moneys contributed to the fund by any person or entity and accepted by the commission.

(3) All moneys collected civilly under any proceeding brought pursuant to any provision of this chapter or Division 19 (commencing with Section 29000) of the Public Resources Code.

(b) All moneys paid into the fund shall be available for expenditure by the commission or the executive director, when appropriated by the Legislature, for the purposes of removing fill, resource enhancement, or performing any other remedial cleanup or abatement actions within the commission's jurisdiction.

SEC. 4. Section 29405 of the Public Resources Code is amended to read:

29405. Notwithstanding the provisions of Sections 29400, 29401, 29402, and 29403, the local protection program for that portion of the secondary management area west of State Highway Route 680 and outside the city limits of the City of Fairfield as of January 1, 1977, may include only ordinances to be prepared by the county, in cooperation with the City of Benicia, which control grading, erosion, sediment, runoff, and creekside development and which meet the requirements of subdivisions (h) and (i) of Section 29401. Such ordinances shall take into consideration the seismic hazards and unusually erodible and landslide-prone soils at this location, and ensure that development, if any, in this portion of the secondary management area will not cause increased sedimentation within the

marsh.

SEC. 5. Section 29605 of the Public Resources Code is amended to read:

29605. Any person may maintain an action for the recovery of civil penalties provided in Section 29610 or 29611. Any penalties so recovered shall inure to the state and shall be deposited in the Bay Fill Clean-up and Abatement Fund established pursuant to Section 66647 of the Government Code. However, the person recovering such penalties shall be entitled to reimbursement for reasonable attorney's fees out of the penalties so recovered.

SEC. 6. Section 29612 of the Public Resources Code is amended to read:

29612. Any moneys recovered by the commission under this article shall be deposited in the Bay Fill Clean-up and Abatement Fund established pursuant to Section 66647 of the Government Code.

CHAPTER 414

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

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Allocations totaling four thousand nine hundred seventy-five dollars ($4,975) made from the Aeronautics Account in the State Transportation Fund by the Division of Aeronautics of the Department of Transportation to the East Kern Airport District for the 1974–1975 fiscal year, allocations totaling two thousand five hundred dollars ($2,500) made from the Aeronautics Account to the district for the 1969–1970 fiscal year, and allocations totaling two thousand five hundred dollars ($2,500) made from the Aeronautics Account to the district for the 1970–1971 fiscal year, which allocations together total nine thousand nine hundred seventy-five dollars ($9,975), are hereby ratified, validated, confirmed, and declared legally effective for all purposes.

SEC. 2. Allocations for the 1972–73, 1973–74, and 1974–75 fiscal years totaling eight thousand two hundred fifty-one dollars ($8,251) made from the Aeronautics Account in the State Transportation Fund by the Division of Aeronautics of the Department of Transportation to the City of Montague for airport purposes are hereby ratified, validated, confirmed, and declared legally effective for all purposes.

SEC. 3. There is hereby appropriated from the Aeronautics Account in the State Transportation Fund to the Division of Aeronautics of the Department of Transportation the sum of ten

thousand dollars ($10,000) for allocation to the East Kern Airport District for the purpose of returning to the district amounts repaid by the district to the account during the 1979–1980 fiscal year upon demand of the division.

SEC. 4. The Legislature finds and declares that Section 1 of this act is necessary since special facts and circumstances applicable to the East Kern Airport District, and not generally applicable, make the accomplishment of this purpose impossible by any general law. There exists a dispute as to the validity of allocations made by the Division of Aeronautics of the Department of Transportation to the East Kern Airport District for airport purposes based on a good faith expenditure of those funds. The Legislature further finds and declares that this is the only such expenditure of funds involved, that the purpose of this act is impossible to accomplish by any general law within the meaning of Section 16 of Article IV of the California Constitution, and that special legislation applicable only to the East Kern Airport District is therefore necessary.

SEC. 5. The Legislature finds and declares that Section 2 of this act is necessary since special facts and circumstances applicable to the City of Montague, and not generally applicable, make the accomplishment of this purpose impossible by any general law. There exists a dispute as to the validity of allocations made by the Division of Aeronautics of the Department of Transportation to the City of Montague from the Aeronautics Account in the State Transportation Fund for airport purposes. The Legislature further finds and declares that this is the only such expenditure of funds involved, that the purpose of this act is impossible to accomplish by any general law within the meaning of Section 16 of Article IV of the California Constitution, and that special legislation applicable only to the City of Montague is therefore necessary.

CHAPTER 415

An act to amend the heading of Article 8.5 (commencing with Section 6146) of Chapter 4 of Division 3 of, and to add Section 6147 to, the Business and Professions Code, relating to attorneys' fees.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. The heading of Article 8.5 (commencing with Section 6146) of Chapter 4 of Division 3 of the Business and Professions Code is amended to read:

Article 8.5. Contingency Fee Agreements

SEC. 2. Section 6147 is added to the Business and Professions Code, to read:

6147. (a) An attorney who contracts to represent a plaintiff on a contingency fee basis shall, at the time the contract is entered into, provide a duplicate copy of the contract, signed by both the attorney and the plaintiff, or his guardian or representative, to the plaintiff, or to the plaintiff's guardian or representative. The contract shall include, but is not limited to, the following:

(1) A statement of the contingency fee rate which the client and attorney have agreed upon.

(2) A statement as to how disbursements and costs incurred in connection with the prosecution or settlement of the claim will affect the contingency fee and the client's recovery.

(3) A statement as to what extent, if any, the plaintiff could be required to pay any compensation to the attorney for related matters that arise out of their relationship not covered by their contingency fee contract. This may include any amounts collected for the plaintiff by the attorney.

(4) Unless the claim is subject to the provisions of Section 6146, a statement that the fee is not set by law but is negotiable between attorney and client.

(5) If the claim is subject to the provisions of Section 6146, a statement that the rates set forth in that section are the maximum limits for the contingency fee agreement, and that the attorney and client may negotiate a lower rate.

(b) Failure to comply with any provision of this section shall render the agreement voidable at the option of the plaintiff, and the attorney shall thereupon be entitled to collect a reasonable fee.

(c) This section shall not apply to contingency fee contracts for the recovery of workers' compensation benefits.

CHAPTER 416

An act to add Section 831.6 to the Penal Code, relating to public officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 831.6 is added to the Penal Code, to read:

831.6. (a) A transportation officer is a public officer, not a peace officer, appointed on a contract basis by a peace officer to transport a prisoner or prisoners.

(b) A transportation officer shall have the authority of a public officer, and shall have the right to carry or possess firearms, only while engaged in the transportation of a prisoner or prisoners for the duration of the contract.

(c) Each person described in this section as a transportation officer shall, prior to the transportation of any prisoner, have satisfactorily completed the training course specified in Section 832.

(d) A transportation officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a peace officer.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to advance the interests of public safety in the transportation of prisoners, it is necessary that this act go into immediate effect.

CHAPTER 417

An act to amend Sections 25221 and 25232 of the Health and Safety Code, relating to waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 25221 of the Health and Safety Code, as amended by Chapter 165 of the Statutes of 1982, is amended to read:

25221. (a) Any person as owner, lessor, or lessee who (1) knows or has probable cause to believe that a significant disposal of hazardous waste has occurred on, under, or into the land which he or she owns or leases or that the land is within 2,000 feet of a significant disposal of hazardous waste; and (2) intends to construct or allow the construction on such land of a building or structure to be used for a purpose which is described in subdivision (b) of Section 25232 within the next calendar year; shall apply to the department prior to such construction for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

The addition of rooms or living space to an existing single-family dwelling or other minor repairs or improvements to residential property which do not change the use of the property or increase the population density does not constitute the construction of a building or structure for purposes of this subdivision.

(b) Any person who, as owner, lessor, or lessee, knows or has

probable cause to believe that land which he or she owns or leases is a hazardous waste property or a border zone property, may apply to the department for a determination whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(c) If a city or county knows or has probable cause to believe that any land within its jurisdiction is a hazardous waste property or a border zone property, the city or county may apply to the department for a determination whether that land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(d) Subdivisions (a), (b), and (c) shall not be applicable to any land on which a determination has previously been made pursuant to Section 25229 unless either of the following has occurred since such determination:

(1) A significant new disposal of hazardous waste has occurred on, under, or into the land.

(2) Significant new information about past disposal of hazardous waste on, or within 2,000 feet of, the land becomes known to the owner, lessor, or lessee of such land.

SEC. 2. Section 25232 of the Health and Safety Code is amended to read:

25232. (a) Except as provided in subdivision (c) of this section, after the director has provided notice in compliance with Section 25222 and a hearing or decision regarding specific land is pending, or after a hearing has been conducted and a decision has been made pursuant to Section 25229 that land is a hazardous waste property, then none of the following shall occur on the land without a specific variance approved in writing by the department for the land use and land in question:

(1) Any new use of the land, other than the use, modification, or expansion of an existing industrial or manufacturing facility or complex on land which is owned by, or held for the beneficial use of, such facility or complex as of January 1, 1981, and which is a hazardous waste property as defined in Section 25117.3.

(2) Subdivision of such land, as that term is used in Division 2 (commencing with Section 66410) of Title 7 of the Government Code, except that this paragraph shall not prevent the division of a parcel of land so as to divide that portion of the parcel which is designated a hazardous waste property from other portions of such parcel not so designated.

(b) Except as provided in subdivision (c) of this section, after the director has provided notice in compliance with Section 25222 and a hearing or decision regarding specific land is pending, or after a hearing has been conducted and a decision has been made pursuant to Section 25229 that land is a border zone property, then none of the following shall occur on the land without a specific variance approved in writing by the department for the land use and land in question:

(1) Construction or placement of a building or structure on the land which is intended for use as any of the following, or the new use of an existing structure for the purpose of serving as any of the following:

(A) A residence, including any mobilehome or factory built housing constructed or installed for use as permanently occupied human habitation, except that the addition of rooms or living space to an existing single-family dwelling or other minor repairs or improvements to residential property which do not change the use of the property or increase the population density does not constitute construction or placement of a building or structure for the purposes of this paragraph.

(B) A hospital for humans.

(C) A school for persons under 21 years of age.

(D) A day care center for children.

(E) Any permanently occupied human habitation other than those used for industrial purposes.

(2) Subdivision of such land, as that term is used in Division 2 (commencing with Section 66410) of Title 7 of the Government Code, except that this paragraph shall not prevent the division of a parcel of land so as to divide that portion of the parcel which is designated a border zone property from other portions of such parcel not so designated.

(c) This section shall not apply to a portion of a parcel of land which is determined by the director to meet all of the following requirements:

(1) The parcel has been previously classified as a class II-1 disposal site as defined in Section 2510 or 2511 of Title 23 of the California Administrative Code.

(2) The portion of the parcel is physically isolated from the remainder of the classified parcel by the construction of a freeway, as defined in Section 332 of the Vehicle Code, which divides the classified parcel.

(3) The portion of the parcel has not been used as a hazardous waste disposal site.

(4) The portion of the parcel does not contain or overlie hazardous waste.

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

In order for the orderly implementation of the restrictions on construction on or near land upon which hazardous wastes have been deposited, it is necessary that this act take effect immediately.

CHAPTER 418

An act to amend Sections 2420, 2542, 2553, 2553.7, and 2555 of, and to add Section 2555.2 to, to add Article 2 (commencing with Section 2560) and Article 3 (commencing with Section 2565) to Chapter 5.5 of Division 2 of, and to repeal Sections 2554 and 2554.5 of, the Business and Professions Code, relating to registered dispensing opticians, and making an appropriation therefor.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 2420 of the Business and Professions Code is amended to read:

2420. The provisions of this article apply to, determine the expiration of, and govern the renewal of, each of the following certificates, licenses, registrations, and permits issued by or under the Board of Medical Quality Assurance: physician's and surgeon's certificates, certificates to practice podiatric medicine, physical therapy licenses and approvals, registrations of dispensing opticians, registrations of contact lens dispensers, certificates of drugless practitioners, certificates to practice midwifery, and fictitious-name permits.

SEC. 1.5. Section 2542 of the Business and Professions Code is amended to read:

2542. Only a physician and surgeon or optometrist in connection with the fitting of a contact lens or lenses may utilize the service of a registered dispensing optician acting on the advice, direction and responsibility of such physician and surgeon or optometrist. A registered dispensing optician shall not fit a contact lens or lenses unless the prescription specifically refers to and authorizes contact lenses. A registered dispensing optician shall not fit a generic type of contact lens or mode of wear for a contact lens contrary to the type or mode, if any, referred to in the prescription.

SEC. 2. Section 2553 of the Business and Professions Code is amended to read:

2553. If the board, after investigation, approves such application and finds the applicant to be competent and qualified to engage in the business of dispensing optician it shall register such applicant and issue to the applicant a certificate of dispensing optician. If the board does not so determine it shall deny the application. A separate certificate of registration shall be required for each address where the business is to be conducted. Such certificate authorizes the applicant, its agents and employees acting therefor without further license, to engage in the business defined in Section 2550, except that if the applicant also desires to dispense contact lenses the applicant shall also comply with the requirements of Article 2 (commencing

with Section 2560). Such certificate of registered dispensing optician shall be at all times displayed in a conspicuous place at the place of business licensed. Such certificate shall not be transferable, but on application to the division there may be registered a change of address of such certificate.

SEC. 3. Section 2553.7 of the Business and Professions Code is amended to read:

2553.7. During the time an individual or firm is authorized to engage in business at an address for which a separate certificate is issued pursuant to Section 2553, the person in charge of and managing the dispensing operations at that address must possess all of the qualifications specified in Section 2552 and must not be in charge of or manage dispensing operations at any other address. At all times, the manager shall actively and as his or her principal occupation be in charge of and manage dispensing operations at that address, allowing for usual and customary periods of absence such as for illness and vacation.

A certificate of registration issued for a particular address shall automatically expire 90 days after the time the dispensing operations at that address cease for any reason to be under the charge of and managed by the person so designated in the registrant's previously filed application or renewal application, unless within 90 days from the date of such cessation the registrant submits and the board approves a new application form containing all of the information specified in Section 2552 including the affidavits referred to in subdivision (b) of Section 2552. A certificate of registration shall automatically expire, however, without a 90-day delay in the event the manager designated at that address is transferred to serve as manager at another registered address operated by the registrant, unless prior to such transfer a new manager has been designated by the registrant, approved by the board, and actively in charge of dispensing operations at that address, as herein provided.

Whenever a manager ceases to be an active manager at any address because of death, termination of employment, transfer of employment or any other reason, registrant and the manager, within five days thereafter, shall give written notice to the division thereof, stating the reason for such cessation.

No earlier than January 1 and no later than January 31 of each odd-numbered year, each registrant shall file with the division the name of the person who at the time of filing has charge of and manages the registrant's dispensing operations at each address for which a separate certificate has previously been issued by the division.

In addition to any other remedies or penalties provided by law, the division may, in accordance with Section 2555, suspend, revoke, or refuse to renew the certificate of any individual or firm who has violated any provision of this section.

SEC. 4. Section 2554 of the Business and Professions Code is repealed.

SEC. 5. Section 2554.5 of the Business and Professions Code is repealed.

SEC. 6. Section 2555 of the Business and Professions Code is amended to read:

2555. Certificates issued hereunder may in the discretion of the division be suspended or revoked for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder or by an employee of the certificate holder. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 7. Section 2555.2 is added to the Business and Professions Code, to read:

2555.2. Whenever the division imposes disciplinary action against a registrant pursuant to Section 2555, it may also in its decision order the manager who was acting as the registrant's qualified manager at the time of the acts or omissions which resulted in disciplinary action being taken against the registrant, to suspend or terminate or carry on subject to terms and conditions, his or her practice as a qualified manager for any registrant under this chapter.

SEC. 8. Article 2 (commencing with Section 2560) is added to Chapter 5.5 of Division 2 of the Business and Professions Code, to read:

Article 2. Contact Lens Dispensing

2560. On and after March 1, 1984, no individual may fit and adjust contact lenses unless the registration requirement of Section 2550 is complied with, and unless (a) the individual is a duly registered contact lens dispenser as provided in Section 2561 or (b) the individual performs the fitting and adjusting under the direct responsibility and supervision of a duly registered contact lens dispenser who is then present on the registered premises. In no event shall a registered contact lens dispenser supervise more than three contact lens dispenser trainees. An individual shall not fit contact lenses as a trainee after acquiring five full years of experience in fitting contact lenses. After acquiring five full years of experience, the trainee may fit contact lenses only as a registered contact lens dispenser as provided in Section 2561.

2561. An individual shall apply for registration as a registered contact lens dispenser on forms prescribed by the division. The division shall register an individual as a registered contact lens dispenser upon satisfactory proof that the individual has passed the contact lens registry examination of the National Committee of Contact Lens Examiners or any successor agency to that committee. In the event the division should ever find after hearing that the registry examination is not appropriate to determine entry level

competence as a contact lens dispenser or is not designed to measure specific job performance requirements, the division may thereafter from time to time prescribe or administer a written examination that meets such specifications. Any examination administered by the division shall be given at least twice each year on dates publicly announced at least 90 days before the examination dates. The division is authorized to contract with the National Committee of Contact Lens Examiners or any successor agency to that committee to provide that the registry examination is given at least twice each year on dates publicly announced at least 90 days before the examination dates.

The division may deny registration where there are grounds for denial under the provisions of Division 1.5 (commencing with Section 475).

The division shall issue a certificate to each qualified individual stating that the individual is a registered contact lens dispenser.

A registered contact lens dispenser may use that designation, but shall not hold himself or herself out in advertisements or otherwise as a specialist in fitting and adjusting contact lenses.

2562. Upon satisfactory completion of the fitting of contact lenses, but in no event more than 60 days after receipt of the prescription, a registered contact lens dispenser shall direct the person named in the prescription to return to the prescribing physician and surgeon or optometrist for an evaluation.

2563. A certificate issued to a registered contact lens dispenser may in the discretion of the division be suspended or revoked for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be suspended or revoked if the individual certificate holder has been convicted of a felony as provided in Section 2555.1.

Any proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the division shall have all the powers granted therein.

2564. The provisions of this article shall not apply to a technician fitting contact lenses in the office of a physician and surgeon or optometrist while acting under the direct responsibility and supervision of the physician and surgeon or optometrist who engages in the practice of fitting contact lenses for his or her patients under Section 2544.

2564.5. A registered dispensing optician fitting contact lenses shall maintain accessible handwashing facilities on the premises and those facilities shall be used before each fitting of contact lenses.

SEC. 9. Article 3 (commencing with Section 2565) is added to Chapter 5.5 of Division 2 of the Business and Professions Code, to read:

Article 3. Fiscal Provisions

2565. The amount of fees prescribed in connection with the registration of dispensing opticians is as follows:

(a) The application fee is fifty dollars ($50), thirty-five dollars ($35) of which may be refunded upon refusal or denial of a certificate.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(c) The renewal fee shall be fixed by the Division of Allied Health Professions at not more than one hundred fifty dollars ($150) and not less than one hundred dollars ($100).

(d) The delinquency fee is fifteen dollars ($15).

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers is as follows:

(a) The fee for application to qualify as a registered contact lens dispenser shall be set by the Division of Allied Health Professions in an amount not to exceed one hundred dollars ($100), except that if the certificate is to expire less than one year after its issuance, then the initial fee shall be an amount equal to 75 percent of the application fee fixed by the division.

(b) The biennial fee for the renewal of certificates shall be fixed by the division in an amount not to exceed one hundred dollars ($100).

(c) The delinquency fee is fifteen dollars ($15).

(d) The Division of Allied Health Professions may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

2567. (a) The provisions of Article 19 (commencing with Section 2420) and Article 20 (commencing with Section 2435) of Chapter 5 which are not inconsistent or in conflict with this chapter apply to the issuance and govern the expiration and renewal of certificates issued under this chapter. All fees collected from persons registered or seeking registration under this chapter shall be paid into the Contingent Fund of the Board of Medical Quality Assurance.

(b) The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this chapter.

2568. On and after July 1, 1982, the board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the State Treasurer for deposit in the Dispensing Opticians Fund, which fund is created and continuously appropriated to carry out the provisions of this chapter.

On and after July 1, 1982, the unencumbered balance of any funds in the Contingency Fund of the Board of Medical Quality Assurance derived from fees and revenues received from registered dispensing opticians and registered contact lens dispensers, and applicants for such registration, shall be transferred to the Dispensing Opticians Fund and shall be expended as provided in this section.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 419

An act to amend Section 798.3 of the Civil Code, and to amend Section 18010 of, the Health and Safety Code, relating to mobilehomes.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 798.3 of the Civil Code is amended to read:

798.3. "Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. Mobilehome does not include a recreational vehicle, as defined in Section 799.24 of this code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18218 of the Health and Safety Code.

SEC. 2. Section 18010 of the Health and Safety Code is amended to read:

18010. "Recreational vehicle" is a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, which meets all of the following criteria:

(a) Contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(b) Contains 400 square feet or less of gross area measured at maximum horizontal projections.

(c) Is built on a single chassis.

(d) Is either self-propelled, truck-mounted, or permanently

towable on the highways without a permit.

CHAPTER 420

An act to add Sections 987.566 and 987.64 to the Military and Veterans Code, relating to veterans' farm and home purchase, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 987.566 is added to the Military and Veterans Code, to read:

987.566. (a) Notwithstanding the preferences set forth in Section 987.56, all veterans whose applications for benefits under this article were filed with the department on or before December 31, 1981, and whose applications are subsequently approved, shall be entitled to commitments for funding prior to any veteran whose application is filed on or after January 1, 1982. Any action to this effect taken by the department prior to the effective date of this section is hereby confirmed and ratified.

(b) Whenever applications exceed the amount of funds available, the department may establish a date so as to provide funding to veterans whose applications were filed on or before that date, and whose applications are subsequently approved, before funding is made available to those whose applications are filed after the date, except that the department may establish the date only once in each calendar year.

SEC. 2. Section 987.64 is added to the Military and Veterans Code, to read:

987.64. In the event of any conflict or difference between any provision of this article and the federal Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499; 94 Stat. 2660), including any amendment thereto and any regulation issued thereunder, the department shall comply with that federal law or regulation to the extent necessary to maintain the tax-exempt status of any issue of its general obligation or revenue bonds. Any action taken by the department prior to the effective date of this section to effect that compliance is hereby confirmed and ratified, it having at all times been the intent of the Legislature that the tax-exempt status of those bonds be maintained.

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

The enactment of federal legislation and the publication of federal regulations restricting the issuance and use of tax-exempt mortgage

subsidy bonds by state and local agencies has adversely affected the ability of the Department of Veterans Affairs to administer the provisions of the Veterans' Farm and Home Purchase Act of 1974, and the immediate enactment of state legislation is necessary to enable compliance with the federal legislation and regulations. In order that the issuance and use of veterans' general obligation and revenue bonds may proceed in an orderly manner, consistent with the requirements of the federal law and regulations, without costly and unnecessary delays in the funding of home loans for thousands of veterans, it is necessary that this act take effect immediately.

CHAPTER 421

An act to add Section 1256.1 to the Health and Safety Code, and to add Section 14132.3 to the Welfare and Institutions Code, relating to health.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1256.1 is added to the Health and Safety Code, to read:

1256.1. No general acute care hospital shall hold itself out directly or indirectly by any sign, brochure, or advertisement as providing any service or services which require a supplemental or special service unless that general acute care hospital has first obtained a supplemental or special service approval from the State Department of Health Services to operate such a service.

SEC. 2. Section 14132.3 is added to the Welfare and Institutions Code, to read:

14132.3. In addition to any other criteria as provided in subdivision (p) of Section 14132, no reimbursement shall be made pursuant to this chapter for any service in a general acute care hospital for which a special permit or a supplemental service approval is required pursuant to Section 1256.1 of the Health and Safety Code unless that general acute care hospital has first obtained a special permit or a supplemental service approval from the State Department of Health Services.

CHAPTER 422

An act making an appropriation for firearms range facilities for the California State Police Division, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. The sum of twenty-four thousand dollars ($24,000) is hereby appropriated from the General Fund to purchase equipment and related items to construct and maintain three adequate firearms qualification ranges for peace officer employees and members of the California State Police Division. The firearms ranges shall be located on existing state lands in Sacramento, San Francisco, and Los Angeles Counties, or counties located adjacent thereto. An equal amount of funds shall be used for the purchase, construction and maintenance of each of the three firearms ranges. Use of the firearms ranges shall be available to other peace officers or persons upon request as deemed appropriate by the Chief of the State Police.

SEC. 2. It is the intent of this act to provide suitable and adequate firearms range facilities for peace officers employed by the California State Police Division assigned in northern, central, and southern California, in order to standardize firearms training and proficiency statewide for those officers.

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

Ongoing training and proficiency in the use of firearms is essential to the provision of public safety services by peace officers employed by the California State Police Division. Because such training and proficiency cannot be accomplished without firearms range facilities, it is necessary that this act take effect immediately.

CHAPTER 423

An act to amend Section 527.6 of the Code of Civil Procedure, and to amend Section 273.6 of the Penal Code, relating to harassment.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with the provisions of subdivision (a) of Section 527 of the Code of Civil Procedure. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies or denies the alleged harassment. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(g) The court shall order the plaintiff or the attorney for the plaintiff to deliver or the clerk to mail a copy of each temporary

restraining order or injunction or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or injunction granted under this section shall be punishable pursuant to Section 273.6 of the Penal Code.

(j) This section shall not apply to any action covered by Section 4359 or 7020 of the Civil Code, or by Chapter 4 (commencing with Section 540) of this title, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 2. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of any of the following court orders, when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, Section 527.6 of the Code of Civil Procedure, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure, shall be a misdemeanor punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for not more than 6 months or by both such fine and imprisonment:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (b).

(b) Any person who willfully and knowingly violates an order obtained pursuant to Section 527.6 of the Code of Civil Procedure shall be punishable as provided in subdivision (a). However, a person who has previously been convicted one or more times of violating an order obtained pursuant to Section 527.6 of the Code of Civil Procedure upon charges separately brought and tried, shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time

of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to the provisions listed in subdivisions (a) and (b).

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 424

An act to amend Sections 32002, 32100, and 32100.5 of, and to repeal Sections 32002.1, 32002.3, 32100.3, 32100.4, 32100.8, and 32100.9 of, the Health and Safety Code, relating to hospital districts.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 32002 of the Health and Safety Code is amended to read:

32002. The manner of formation of local hospital districts, and the conducting of all hospital district elections, unless otherwise provided in this division shall be as in the manner provided, respectively, by Chapter 1 (commencing with Section 58000) of Division 2 of Title 6 of the Government Code and Part 2.5 (commencing with Section 23300) and Part 3 (commencing with Section 23500) of Division 14 of the Elections Code. Except as provided in this division, all of the provisions of such chapter and part are hereby incorporated in this division by reference and shall have the same effect and force as if fully set forth herein. In addition to all other requirements regarding formation of hospital districts, no hearing upon the petition to form a hospital district shall be held until there shall have been filed with the supervising authority comments and recommendations of the Office of Statewide Health Planning and Development and each area health planning agency having territory within the proposed district, concerning the need for new or additional health facilities in the area to be served by the proposed district. The Office of Statewide Health Planning and Development and the area health planning agency or agencies shall submit such comments and recommendations to the supervising authority within 60 days after receiving a request therefor from the proponents. Failure to submit such comments to the supervising

body within 60 days shall be deemed to constitute a "no comment" response.

SEC. 2. Section 32002.1 of the Health and Safety Code is repealed.

SEC. 3. Section 32002.3 of the Health and Safety Code is repealed.

SEC. 4. Section 32100 of the Health and Safety Code is amended to read:

32100. The elective officers of a local hospital district shall be a board of hospital directors consisting of five members, each of whom shall be a registered voter residing in the district and whose term shall be four years, with the exception of the first board. The first board of directors shall be appointed, upon the formation of the district, by the board of supervisors of the county in which the land or a greater part of the land in the district is situated. Upon their appointment, the first board so appointed shall so classify themselves by lot that two members thereof shall go out of office the last Friday in November next following the election or appointment if no election is held and qualification of their successors as herein provided, and three members will go out of office two years thereafter. Any vacancy upon the board shall be filled by the methods prescribed in Section 1780 of the Government Code.

SEC. 5. Section 32100.3 of the Health and Safety Code is repealed.

SEC. 6. Section 32100.4 of the Health and Safety Code is repealed.

SEC. 7. Section 32100.5 of the Health and Safety Code is amended to read:

32100.5. An election which shall be known as the hospital district general election, shall be held in each local hospital district on the the first Tuesday after the first Monday in November in each even-numbered year, at which a successor shall be chosen to each officer whose term shall expire on the last Friday of November following such election. The hospital district general election shall be consolidated with the statewide general election pursuant to Chapter 4 (commencing with Section 23300), Part 2, Division 14 of the Elections Code.

The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The term of office of each elective officer of the district elected, shall be four years, or until his or her successor is elected and has qualified.

SEC. 8. Section 32100.8 of the Health and Safety Code is repealed.

SEC. 9. Section 32100.9 of the Health and Safety Code is repealed.

CHAPTER 425

An act to add Section 13114.7 to the Health and Safety Code, relating to fire protection.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 13114.7 is added to the Health and Safety Code, to read:

13114.7. (a) For the purposes of this section the following are definitions of class I and class II systems:

(1) American Water Works Association (A.W.W.A.) Manuel No. M-14 class 1—Automatic fire sprinkler systems with direct connection from public water mains only; no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or additives of any kind; and all sprinkler drains discharging to the atmosphere or other safe outlets.

(2) American Water Works Association (A.W.W.A.) Manual No. M-14 class 2—Automatic fire sprinkler systems which are the same as class 1, except that booster pumps may be installed in the connections from the street mains.

(b) Automatic fire sprinkler systems described in subdivision (a) shall not require any backflow protection equipment at the service connection other than required by standards for those systems contained in the publication of the National Fire Protection Association entitled "Installation of Sprinkler Systems" (N.F.P.A. Pamphlet No. 13, 1980 edition).

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 426

An act to add Article 7 (commencing with Section 8120) to Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code, relating to the California Occupational Information System.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Article 7 (commencing with Section 8120) is added to Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code, to read:

Article 7. California Occupational Information System

8120. It is the intent of the Legislature in enacting this article to insure that all employment training and vocational education programs are planned and implemented so as to provide trainees and students with skills which will be in demand by employers at the conclusion of such training and vocational education.

8121. In creating the California Occupational Information System pursuant to this article, the Legislature finds that accurate and timely labor market information, including information relating to current and future labor supply as well as job and skill demands, is presently not available to vocational education and employment training entities to permit careful planning of programs and prudent allocation of resources. The Legislature further finds that:

(a) The educational system, state and local governments, and all entities involved in developing job skills for California youth and other unemployed and underemployed persons, will more effectively use their resources by modifying curricula and training programs if timely information is provided about current and future career skills that will be needed by employers.

(b) Accurate information regarding how many students and trainees in a labor market area are being prepared for specific job categories in relation to projected job demands will be of assistance in making vocational education and training program evaluations and decisions.

(c) Students, in making career choices, and their counselors, need information about future job demands, job duties, and other job characteristics, and the supply of students and trainees preparing to enter the various job categories.

(d) Information about future job demands and labor supply would be of substantial benefit to private industry in identifying locations where projected skill needs arising from new industrial sitings or expansions can be met.

(e) Industry has offered to provide to the state information about projected job skill needs and has formally recommended through the Job Development and Business Expansion Task Force that the state proceed with developing a comprehensive California Occupational Information System.

8122. The California Occupational Information System is hereby designated as the official state program for the production of occupational planning, administration and guidance information for use by vocational educators, education and training planners, students, and counselors.

8123. The Director of Employment Development, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the Director of the Department of Rehabilitation, and the Chairperson of the California Employment and Training Advisory Council, or his or her designee, and the Executive Secretary of the Council for Private Postsecondary

Educational Institutions in the Department of Education shall cooperate jointly as the State Occupational Information Coordinating Committee (hereafter referred to as the SOICC) to develop and implement the California Occupational Information System. The SOICC shall consult with other potential users of the system to maximize the collection of data and the development of a uniform system that can be used to the greatest extent feasible.

8124. The Employment Development Department, in consultation with the Department of Education, the Chancellor of the California Community Colleges, the Department of Rehabilitation, the California Employment and Training Advisory Council, the Council for Private Postsecondary Educational Institutions, and other potential users, including but not limited to the California Postsecondary Education Commission and the Division of Apprenticeship Standards in the Department of Industrial Relations, shall be responsible for the preparation of occupational employment demand information concerning job skills that employers are projected to need in the future in the various labor markets.

8125. The Department of Education and the Chancellor of the California Community Colleges, in consultation with the other entities listed in Section 8124, and other potential users, shall be responsible for the production of uniform public and private educational supply information concerning the number of students and trainees in courses related to each job category and in each school or center.

8126. The Employment Development Department, in consultation with other entities listed in Section 8124, and other potential users, shall develop and produce, to the maximum extent feasible, socioeconomic information that is related to employment and training.

8127. The California Employment and Training Advisory Council, in consultation with other entities listed in Section 8124, and other potential users, shall be responsible for the production of federal Comprehensive Employment and Training Act training supply information concerning trainees enrolled in and completing training programs in each job category in each prime sponsor or labor market area.

8128. The Department of Rehabilitation, in consultation with the other entities listed in Section 8124, and other potential users, shall be responsible for the production of information concerning training activities and other rehabilitation data required for the California Occupational Information System.

8129. The entities listed in Section 8124 shall jointly develop and produce, to the extent feasible, other data required for the California Occupational Information System.

8130. The SOICC shall seek to maximize the dissemination and effective use of information developed pursuant to this article. The respective roles of each of the entities shall be fully set out in written

agreements. Each entity is authorized to enter into agreements with each other and with any other entity for the purposes of this article. Appropriations to each entity for the purpose of administration of the California Occupational Information System under this article shall be separately identified by purpose and amount and shall not be included in appropriations to the entity for any other purpose.

8131. The information produced by the California Occupational Information System shall be used by the entities listed in Section 8124 to plan programs, curricula, staff developmental training for vocational education and training personnel; to counsel students; and for all other uses related to effectively carrying out the intent and purposes of this article. The information shall be available to students to aid them in making career choices, to operators of employment and training programs, and to other potential users to the maximum extent feasible.

8132. The Department of Rehabilitation and the California Employment and Training Advisory Council shall cooperate with the Employment Development Department, the Department of Education, and the Chancellor of the California Community Colleges, which three entities shall report annually to the Legislature, not later than the fifth legislative day, on the progress made toward the establishment of the program and on the use by the entities listed in Section 8124 of the information provided pursuant to this article.

8133. Each entity responsible for any function or activity pursuant to this article shall seek and obtain funds or in-kind contributions to the maximum extent possible from federal and private sources, and may accept and use any such funds or in-kind contributions for the purposes of this article. Each entity shall perform the function or activity with which it is charged under this article to the maximum extent possible with the appropriations, funds and in-kind contributions made available.

CHAPTER 427

An act to amend Section 846.5 of the Civil Code, relating to land surveyors.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 846.5 of the Civil Code is amended to read:

846.5. (a) The right of entry upon or to real property to investigate and utilize boundary evidence, and to perform surveys, is a right of persons legally authorized to practice land surveying and it shall be the responsibility of the owner or tenant who owns or

controls property to provide reasonable access without undue delay. The right of entry is not contingent upon the provision of prior notice to the owner or tenant. However, the owner or tenant shall be notified of the proposed time of entry where practicable.

(b) The requirements of subdivision (a) do not apply to monuments within access-controlled portions of freeways.

(c) When required for a property survey, monuments within a freeway right-of-way shall be referenced to usable points outside the access control line by the agency having jurisdiction over the freeway when requested in writing by the registered civil engineer or licensed land surveyor who is to perform the property survey. The work shall be done within a reasonable time period by the agency in direct cooperation with the engineer or surveyor and at no charge to him.

CHAPTER 428

An act to amend Sections 5012, 5012.5, 5029, 5322, 5323, 5324, 5325, 5340, and 5342 of, to add Sections 5326, 5328.5, and 5329 to, and to repeal Sections 5326 and 5327 of, the Education Code, to amend Sections 1007, 1015, 1351, 1513.1, 10012, 23510.5, 23511, 23512, 23520, 23521.5, 23526, and 23527 of, to add Sections 1353 and 23530.5 to, and to repeal Sections 23518, 23519, and 23522 of, the Elections Code, relating to elections.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 5012 of the Education Code is amended to read:

5012. In any school district or community college district governing board election the name of any registered voter shall be placed on the ballot if there is filed with the county clerk having jurisdiction not more than 113 days nor less than 88 days prior to the election a declaration of candidacy substantially in the form set forth in subdivision (a) of Section 5032, containing the appropriate information in the blank spaces and signed by the registered voter whose name is thereby to be placed on the ballot.

No candidate whose declaration of candidacy has been filed for any school district or community college district governing board election or county board of education election may withdraw as a candidate after the 88th day prior to the election.

Notwithstanding any other provision of law, no person shall file nomination papers for more than one district office, including a county board of education office, at the same election.

SEC. 2. Section 5012.5 of the Education Code is amended to read:

5012.5. Notwithstanding the provisions of Section 5012, if a declaration of candidacy for an incumbent elective member of a school district or community college district governing board or of a county board of education is not filed by 5 o'clock p.m. on the 88th day before the election, any person, other than the incumbent, shall have until 5 o'clock p.m. on the 83rd day before an election to file a declaration of candidacy for such elective office.

SEC. 3. Section 5029 of the Education Code is amended to read:

5029. Notwithstanding any provision of Section 5028, when a community college trustee ward boundary line falls upon an election precinct boundary line, and such election precinct boundary line is changed pursuant to Chapter 1 (commencing with Section 1500) of Division 3 of the Elections Code, the governing board of the district shall, at least 120 days prior to any trustee election, change such ward boundary line to conform to precinct boundary lines, where possible.

SEC. 4. Section 5322 of the Education Code is amended to read:

5322. Whenever an election is ordered, the governing board of the district or the board or officer authorized by this code to make such designations shall, concurrently with or after the order of election but not less than 123 days prior to the date set for the election, by resolution delivered to the county superintendent of schools and the officer conducting the election specify the following, or such of the following as he or she or it may have authority to designate:

(a) The date of the election.

(b) The purpose of the election.

The resolution or resolutions shall be known as "specifications of the election order" and shall set forth the authority for ordering the election, the authority for the specification of the election order and the signature of the officer or the clerk of the board by law authorized to make the designations therein contained.

SEC. 5. Section 5323 of the Education Code is amended to read:

5323. The county superintendent having jurisdiction shall at least 130 days prior to the date of a governing board member election consolidated pursuant to Section 5340, notify the governing boards concerned of the order of consolidation of governing board elections under his or her jurisdiction. Such notice of consolidation shall be given in writing.

SEC. 6. Section 5324 of the Education Code is amended to read:

5324. At least 120 days prior to the date specified for the holding of any school election, the county superintendent of schools shall deliver to the county clerk or registrar of voters, if such office has been established in the county where the election is to be held, copies of:

(a) The order of election.

(b) The formal notice of election.

SEC. 7. Section 5325 of the Education Code is amended to read:

5325. Any school district election or community college district election ordered to be held in accordance with the provisions of this

code shall be called by the county superintendent of schools having jurisdiction of the election by causing the:

(a) Posting or publication of notices of election, and

(b) Delivery of a copy of the formal notice of election to the county clerk or registrar of voters at least 120 days prior to the date of the election.

SEC. 8. Section 5326 of the Education Code is repealed.

SEC. 9. Section 5326 is added to the Education Code, to read:

5326. If, by 5 o'clock p.m. on the 83rd day prior to the day fixed for the governing board member election, only one person has been nominated for any elective office to be filled at that election, or no one has been nominated for the office, or in the case of members to be elected from the district at large, the number of candidates for governing board member at large does not exceed the number of offices to be filled at that election, or in the case of members to be nominated by trustee area and elected at large, the number of candidates do not exceed the number required to be elected governing board member at large nominated by that trustee area, and a petition signed by 10 percent of the voters or 50 voters, whichever is the smaller number, in the district or trustee area, if elected by trustee area, requesting that a school district election be held for the offices has not been presented to the officer conducting the election, appointment will be made as prescribed by Section 5328.

The provisions of this section and Section 5328 shall also apply to elections for membership on a county board of education.

SEC. 10. Section 5327 of the Education Code is repealed.

SEC. 10.5. Section 5328.5 is added to the Education Code, to read:

5328.5. If no one has been nominated to an office, prior to making an appointment to that office pursuant to Section 5328, the governing board shall cause to be published a notice once in a newspaper of general circulation published in the district or, if no such newspaper is published in the district, in a newspaper having general circulation in the district, stating that the board intends to make an appointment and informing persons of the procedure available for applying for the office.

SEC. 11. Section 5329 is added to the Education Code, to read:

5329. Whenever a candidate has filed a declaration of candidacy the name of the candidate shall be printed upon the ballot unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 60 days before the election.

SEC. 12. Section 5340 of the Education Code is amended to read:

5340. School district governing board or community college district governing board member elections for two or more districts of any type to be held in the same district or area on the same day shall be consolidated so that a person entitled to vote in both or all of such elections may do so at the same time and place and using the same ballot.

When a consolidated election is required by this section to be held, the basic unit for conducting the election shall be the elementary district. The county superintendent of schools having jurisdiction shall notify the governing boards of all school and community college districts in writing at least 130 days prior to the date of the election that a consolidated election is required to be held.

SEC. 13. Section 5342 of the Education Code is amended to read:

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county, or other political subdivision, the district election may be either completely or partially consolidated with such election or elections pursuant to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

The consolidation may be effected by the officer conducting the election upon receipt of resolutions from two or more political subdivisions whose boundaries are totally or partially the same territory calling elections to be held on the same day; provided the resolutions are delivered to the officer conducting the election at least 88 days prior to the date of the election.

SEC. 13.5. Section 1007 of the Elections Code is amended to read:

1007. (a) Upon receipt of any absentee ballot application signed by the voter, which arrives within the proper time, the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The official may make this signature check upon receiving the voted ballot, but the signature must be compared before the absent voter ballot is canvassed.

(b) If the official deems the applicant entitled to an absent voter's ballot he or she shall deliver by mail or in person the appropriate ballot.

(c) If the official determines that an application does not contain all of the information prescribed in Section 1002 or 1006, or for any other reason is defective, and the election official is able to ascertain the voter's address, the official shall, within one working day of receiving the application, mail the voter an absent voter's ballot together with a notice. The notice shall inform the voter that the voter's absent voter's ballot shall not be counted unless the applicant provides the official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed absent voter's ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

If the voter substantially complies with the requirements contained in the official's notice, the voter's ballot shall be counted.

In determining from the records of registration if the signature and residence address on the application appear to be the same as

that on the original affidavit of registration, the clerk or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

SEC. 13.6. Section 1015 of the Elections Code is amended to read:

1015. Upon receipt of the absentee ballot the elections official shall compare the signature on the envelope with that appearing on the affidavit of registration and, if they compare, deposit the ballot, still in the identification envelope, in a ballot container in his or her office. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. If the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

If the elections official has compared the signature of the voter's application with the affidavit pursuant to Section 1007, the application may be used rather than the affidavit to make the signature check required by this section.

No ballot shall be removed from its identification envelope until the time for processing. No ballot shall be rejected for cause after the envelope has been opened.

In determining from the records of registration if the signature and residence address on the identification envelope appear to be the same as that on the affidavit of registration, the clerk or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

SEC. 13.7. Section 1351 of the Elections Code is amended to read:

1351. Notwithstanding the provisions of Sections 10007, 10010, 22832, and 23540, the clerk shall not commence to mail the combined sample ballot and mail ballot prior to the 29th day before the election and shall complete the mailing by the 10th day before the election.

SEC. 13.8. Section 1353 is added to the Elections Code, to read:

1353. Notwithstanding the provisions of Section 1016, ballots cast under the provisions of this chapter shall be received by the official from whom they were obtained no later than 12 o'clock midnight on election day.

SEC. 14. Section 1513.1 of the Elections Code is amended to read:

1513.1. Precinct boundary changes occurring less than 88 days before an election shall not be effective for purposes of that election. Voters residing within an area affected by a boundary change, occurring within 88 days before an election, shall vote at the ensuing election in all respects as if no boundary change had occurred. However, any district which holds a general district election on the first Tuesday after the first Monday in November of an odd-numbered year, shall complete any boundary change not less than 130 days prior to the election, in order to comply with the provisions of Section 23526.

SEC. 15. Section 10012 of the Elections Code is amended to read:

10012. Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself; provided, however, that the governing body of the local agency may authorize an increase in the limitations on words for such statement from 200 to 400 words. Such statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the clerk when his or her nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. Such statement shall be filed in the office of the clerk no later than the 88th day before the election, if it is for an election for which nomination papers are not required to be filed. It may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide that translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended, and may require each candidate filing a statement to pay in advance to the local agency his or her pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event of overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

The clerk shall reject any statement, which contains any obscene, vulgar, profane, scandalous, libelous or defamatory matter, or any language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward, or which tends to cast ridicule or shame upon any person or group of persons by reason of sex, race, color, religion or manner of worship, or any language or matter the circulation of which through the mails is prohibited by Congress.

Nothing in this section shall be deemed to make any such

statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement sent to each voter. Such decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his or her representative at the time he or she picks up the nomination papers.

For purposes of this section, and Section 10012.5, the Board of Supervisors shall be deemed the governing body of judicial elections.

SEC. 16. Section 23510.5 of the Elections Code is amended to read:

23510.5. On the 125th day prior to the day fixed for the general district election the secretary shall deliver a notice to the county clerk. The notice shall bear the secretary's signature and the district seal and shall also contain the following:

(a) The elective offices of the district to be filled at the next general district election;

(b) Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Section 10012.

SEC. 17. Section 23511 of the Elections Code is amended to read:

23511. (a) At least 90 days, and not more than 120 days, before the day fixed for the general district election the county clerk of the principal county shall publish a notice of the election once in a newspaper of general circulation published in the district or, if no such newspaper is published in the district, in a newspaper having general circulation in the district published in any affected county in the district. The notice shall contain the date of the general district election and shall name the offices for which candidates may be nominated. The notice shall state the qualifications required by the principal act for each office for which candidates may be nominated. The notice shall state the location where official nominating petitions for eligible candidates desiring to file for any of the elective offices may be obtained. The notice shall state that appointment to each elective office will be made as prescribed by Section 23520 in the event there are no nominees or an insufficient number of nominees for such office and a petition for an election is not filed within the time period prescribed by Section 23520.

(b) In addition to the requirements of subdivision (a), the county clerk shall, by a general press release, set forth the following:

(1) The elective offices of the district to be filled at the ensuing district election; and

(2) A telephone number which voters of the district may utilize in order to obtain information regarding filing for the elective district office.

SEC. 18. Section 23512 of the Elections Code is amended to read:

23512. Forms for petitions required for nomination to all district offices shall be obtained from the office of the county clerk. The county clerk may, for convenience or necessity, authorize the district secretary to issue nomination forms. The forms shall first be available on the 113th day prior to the general district election and shall be filed not later than 5 p.m. on the 88th day prior to the general district election in the office of the county clerk during regular office hours or may be filed by certified mail so that the forms reach the clerk's office no later than the deadline for filing in that office. At the time of issuance of such forms, there shall be filled in the name of the candidate and the office for which he is a candidate. The form shall be marked "Official Filing Petition" and signed by the county clerk. The petition shall be signed by not less than 10 nor more than 20 voters or by not less than 25 percent nor more than 50 percent of the voters if the same be less than 40. The county clerk shall record the date of filing upon the first page of each petition filed pursuant to this section. No candidate shall withdraw his nomination paper after 5 p.m. on the 88th day prior to the general district election.

On request of the district secretary, the county clerk shall provide the secretary with a copy of each nominating petition filed pursuant to this section.

SEC. 19. Section 23518 of the Elections Code is repealed.

SEC. 20. Section 23519 of the Elections Code is repealed.

SEC. 21. Section 23520 of the Elections Code is amended to read:

23520. If, by 5 p.m. on the 83rd day prior to the day fixed for the general district election: only one person has been nominated for any elective office to be filled at that election; or no one has been nominated for such office; or in the case of directors to be elected from the district at large, the number of nominees for director at large does not exceed the number of offices of director at large to be filled at that election; or in the case of directors to be nominated by division and elected at large, the number of nominees for director at large from a division does not exceed the number required to be elected director at large nominated from that division, and if a petition signed by 10 percent of the voters or 50 voters, whichever is the smaller number, in the district, or division if elected by division, requesting that the general district election be held has not been presented to the governing body of the district, the county clerk, upon receipt of the notice required in Section 23522, shall submit a certificate of these facts to the supervising authority and request that the supervising authority, at a regular or special meeting held prior to the last Monday before the last Friday in November in which the election is held, appoint to such office or offices the person or persons, if any, who have been nominated. The supervising authority shall make such appointments. If no person has been nominated for any office, the supervising authority shall appoint any person to the office who is qualified on the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a general district election for

such office.

Where a director must be appointed to represent a division, all or most of which is not within the county governed by the supervising authority, then the board of supervisors of the county within which all or most of that division is located shall be the body to which request for appointment is made and which shall make such appointment.

SEC. 22. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding the provisions of Section 23512, if nomination papers for an incumbent elective officer of a district are not filed by 5 o'clock p.m. on the 88th day before the general district election, any person other than the incumbent shall have until 5 o'clock p.m. on the 83rd day before the election to file nomination papers for such elective office.

SEC. 23. Section 23522 of the Elections Code is repealed.

SEC. 24. Section 23526 of the Elections Code is amended to read:

23526. At least 125 days prior to the day fixed for the general district election the secretary of a resident voting district shall deliver to the county clerk of each affected county a map showing the boundaries of the district and the boundaries of the divisions of the district, if any, within that county and a statement indicating in which divisions a director is to be elected and whether any elective officer is to be elected at large at the next general district election.

SEC. 25. Section 23527 of the Elections Code is amended to read:

23527. At least 125 days prior to the date fixed by the general district election, the secretary of a landowner voting district shall deliver to the county clerk of each affected county a map or description of the boundaries of the district or divisions for which elections are to be held.

SEC. 26. Section 23530.5 is added to the Elections Code, to read:

23530.5. Whenever a candidate has filed nomination papers, and the candidate's nomination papers have been certified as sufficient pursuant to Section 23512.12, the name of the candidate shall be printed upon the ballot unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 60 days before the day of the election.

CHAPTER 429

An act to amend Section 4026 of, and to add Section 4036.5 to, the Health and Safety Code, relating to drinking water.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 4026 of the Health and Safety Code is amended to read:

4026. (a) The department shall formulate and adopt such rules and regulations covering parameters to be tested and their limits, type of testing, frequency of testing, and such other matters as may be necessary to determine the quality of domestic water supplies, and to establish schedules for compliance with water quality standards.

The regulations and standards adopted by the department shall in no case be less stringent than those set by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act (PL 93-523); provided that exemptions and variances may be granted in accordance with the provisions of this chapter and as permitted by the Safe Drinking Water Act (PL 93-523).

(b) The department may adopt rules and regulations governing the operation and maintenance of public water systems, including, but not limited to, the control of cross-connections, which the department determines are necessary to obtain, treat, and distribute a continuous and adequate supply of pure, wholesome, healthy, and potable water.

SEC. 2. Section 4036.5 is added to the Health and Safety Code, to read:

4036.5. Notwithstanding Sections 4010.8 and 4010.9, the department may, after consultation with the local health officer, take any action authorized by this chapter against a public water system with less than 200 service connections if any of the following occur:

(a) The public water system has been in violation of any provision of this chapter or the regulations adopted hereunder, including any violation of compliance with drinking water standards or waterworks standards, for a period of at least 90 days within the previous year.

(b) A contaminant is present in, or likely to enter, a public water system and presents an imminent and substantial danger to the health of the users of the system.

(c) The state department shall utilize available department staff to carry out the provisions of this section.

CHAPTER 430

An act to amend Section 12055 of the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 12055 of the Public Utilities Code is amended to read:

12055. The "district civil service" shall include every employee of the district except:

(a) Officers elected by the people.

(b) Officers, assistant officers, and other persons and employees appointed by the board of directors.

(c) Temporary construction employees.

(d) Part-time employees.

(e) Such unfilled positions (not to exceed 15) requiring peculiar and exceptional qualifications, including those of a scientific, professional, or expert character or of special confidence, as may be excepted from "district civil service" upon the recommendation of the general manager approved by the board.

(f) Limited-term employees appointed for a period not to exceed two years. Limited-term appointments may be extended for an additional period not to exceed two years upon approval of the general manager.

CHAPTER 431

An act to add Section 168 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 168 is added to the Revenue and Taxation Code, to read:

168. Any document required in this division to be executed by the tax collector may be executed with a facsimile signature in lieu of a manual signature if the manual signature is filed with the Secretary of State and is certified under oath by the tax collector.

Upon compliance with this section, the facsimile signature shall have the same legal effect as the manual signature of the tax collector.

CHAPTER 432

An act to amend Sections 9357.4, 9359, 9359.1, 9359.12, 9359.16, 20452, 20454, 20862.8, 20864, 21364, 21382.2, and 21385 of the Government Code, relating to public retirement.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 9357.4 of the Government Code is amended to read:

9357.4. A member may redeposit in the Legislators' Retirement Fund, in one sum or in not to exceed 12 monthly or 24 semimonthly payments, an amount equal to any accumulated contributions that have been repaid to him pursuant to Section 9357.3, subject to minimum payments fixed by the board, and if he makes such redeposit, he shall receive credit for all service with which he was credited at the time of such repayment.

SEC. 2. Section 9359 of the Government Code is amended to read:

9359. Upon his written application therefor to the Board of Administration, (a) any member of this system who was a member on the effective date of this amendment who has attained age 60, (b) any member who hereafter becomes a member of this system who has attained age 60 and who is credited with four (4) or more years of service, or (c) any member, regardless of age, who is credited with twenty (20) or more years of service, shall be retired, and thereafter shall receive for life the retirement allowance provided in this chapter.

A written application for retirement may be filed at any time during the term of office of the member, or within thirty (30) days after the expiration of his term of office. Any application which does not specify a different date as the effective date of retirement applied for shall be deemed to be an application for retirement as of the day following the expiration of the term of office of the member.

SEC. 3. Section 9359.1 of the Government Code is amended to read:

9359.1. (a) The retirement allowance for a member all of whose credited service was rendered as a Member of the Senate or Assembly except as provided in subdivision (d) is an annual amount equal to five percent (5%) of the compensation payable, at the time payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of his retirement, not to exceed fifteen (15) years. In no event shall any retirement allowance payable under this chapter to any such member exceed the compensation payable to Members of the Legislature at the time

the payment of the allowance is made, except that the retirement allowance of any such member who is credited with more than 15 years shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of 15 years.

(b) The retirement allowance for a member all of whose credited service was rendered as an elective officer of the state whose office is provided for by the Constitution other than a judge (and other than a Member of the Senate or Assembly) the sum of (1) is an annual amount equal to five percent (5%) of the highest compensation received by the officer while serving in such office, multiplied by the number of years of service with which the member is credited at the time of his retirement, not to exceed eight (8) years, plus, if the member is credited with 24 or more years of service, (2) one and two-thirds percent (1⅔%) of the compensation to which the five percent (5%) rate is applicable under subparagraph (1) of this subdivision for his first eight years of credited service, multiplied by the number of years of service in excess of eight years with which the member is credited at the time of his retirement, not to exceed 12 years of such credited service in excess of the eight years of service referred to in subparagraph (1) of this subdivision.

(c) The retirement allowance for a member part of whose credited service was rendered as a Member of the Senate or Assembly and part of whose credited service was rendered as an elective officer of the state whose office is provided for by the Constitution, other than a judge (and other than a Member of the Senate or Assembly) is the sum of (1) an annual amount equal to five percent (5%) of all the compensation, at the time payment of the allowance falls due, to the officer holding the highest salaried office which the member held at any time during his service prior to retirement, multiplied by the number of years of service with which the member is credited at the time of his retirement, not to exceed eight (8) years, plus, if the member is credited with 24 or more years of service, (2) one and two-thirds percent (1⅔%) of the compensation to which the five percent (5%) rate is applicable under subparagraph (1) of this subdivision for his first eight years of credited service, multiplied by the number of years of service rendered as an elective officer of the state whose office is provided for by the Constitution, other than a judge and other than a Member of the Senate or Assembly, with which the member is credited at the time of his retirement, not to exceed 12 years of such credited service in excess of the eight years referred to in subparagraph (1) of this subdivision. If, however, the member would be entitled to receive a greater allowance under subdivision (a), (b), or (d) of this section if all of his credited service had been rendered as a Member of the Senate or Assembly or as an elective officer of the state whose office is provided for by the Constitution other than a judge (and other

than a Member of the Senate or Assembly), then all of his credited service shall be deemed to have been rendered as a Member of the Senate or Assembly or as such other elective officer, and he shall receive a retirement allowance computed under subdivision (a), (b), or (d) of this section, whichever is greater.

(d) The retirement allowance for a member, all of whose service was rendered as a Member of the Senate or Assembly, who is the surviving spouse of a deceased Member of the Senate or Assembly and who becomes the immediate successor in office of such deceased Member of the Senate or Assembly is an annual amount equal to five percent (5%) of the compensation payable, at the time the payments of the allowance fall due, to incumbent Members of the Senate or Assembly, multiplied by the number of years of service with which the member is credited at the time of retirement plus the number of years of service as a Member of the Senate or Assembly rendered by the member's deceased husband or wife plus any period in the term, for which the deceased member was elected, following his or her death, not to exceed fifteen (15) years. In no event shall any retirement allowance payable under this chapter to any such member exceed the compensation payable to Members of the Legislature at the time the payment of the allowance is made, except that the retirement allowance of any such member, whose total service creditable under this subdivision is in excess of fifteen (15) years, shall be increased by an amount equal to 3 percent of the compensation payable, at the time payment of the allowance falls due, to incumbent Members of the Senate or Assembly for each year or fraction of a year in excess of fifteen (15) years. This same computation of total service creditable shall be used as a basis in determining eligibility for retirement, under Sections 9359 and 9359.16, of a member described in this subdivision. Any member to whom this subdivision applies shall redeposit an amount equal to the contributions which were required to be contributed by his or her deceased spouse while he or she was a member of the system for his or her service, computed on the basis of the salary and rate of contribution in effect at the time such service was rendered, or would have been rendered, in the Legislators' Retirement Fund on account of the service of his or her deceased spouse in order to use such service for the purposes of this section and Sections 9359 and 9359.16.

The amendments to this section enacted at the 1969 Regular Session shall apply with respect to any member who retired or retires, or died or dies while eligible to retire on or after May 1, 1969, and any allowance payable with respect to such a member who retired or died prior to the effective date of such amendment, shall be adjusted effective from the date of retirement or death to the amount it would have been had the amendment been in effect on that date.

The provisions of Sections 9359.11 and 9359.12 of this code shall control over any conflicting provisions of this section.

The amendments to this section during the 1973–74 Second Extraordinary Session shall not be applicable to members who are retired on the effective date of the amendments.

SEC. 4. Section 9359.12 of the Government Code is amended to read:

9359.12. (a) Any contrary provisions of Section 9359.1 or Section 9360.9 notwithstanding, and subject to the further limitations in subdivision (b), the retirement allowance of any member of the Legislators' Retirement System who serves as a legislator during or after the term commencing in 1967 shall be the sum of: (1) the amount determined by application of the formula provided by Section 9359.1 to the first five hundred dollars ($500) per month of salary payable to the legislator at the time of his retirement, plus (2) an amount equal to 3 percent of the amount of such salary in excess of five hundred dollars ($500) per month multiplied by the number of years credited the member, or two-thirds of the amount of such salary payable to the legislator at the time of his retirement, whichever is the lesser, plus, in the case of members credited with service prior to the term commencing in 1967, an amount equal to a cost-of-living increase computed under Section 9360.9 as of January 1, 1967, on that portion of the allowance based on five hundred dollars ($500) per month, and said total to be further adjusted to reflect cost-of-living increases occurring after the member's retirement as determined under Section 9360.10.

(b) During such time as he serves in any salaried public office any retired member of the Legislators' Retirement System who served as a legislator during or after the term commencing in 1967 shall receive a retirement allowance computed by application of the formula set forth in Section 9359.1 to a salary of five hundred dollars ($500), and any increase in salary above such amount shall, for such purpose, be disregarded.

SEC. 5. Section 9359.16 of the Government Code is amended to read:

9359.16. Notwithstanding the provisions of Section 9359, a member of this system, other than a legislative statutory officer, who is under age 60 and who is credited with fifteen (15) or more, but less than twenty (20) years of service shall be retired upon his written application therefor to the Board of Administration, and thereafter shall receive for life the retirement allowance provided by this section. The allowance shall be equal to the retirement allowance which he would receive for such service upon retirement at age 60 reduced by two percent (2%) for each year by which the member's age at the time of retirement is below age 60.

SEC. 6. Section 20452 of the Government Code is amended to read:

20452. On request of the board, the public agency shall furnish data concerning its employees as the board requires to make the necessary valuations and investigation into the experience among such employees.

SEC. 7. Section 20454 of the Government Code is amended to read:

20454. At the option of the board the public agency shall have valuations and investigation made through a consulting actuary selected by the board, under contract between the consulting actuary and the public agency. The contract shall be subject to the approval of the board, and the valuations shall be made under the direction of the actuary of this system. Services under the contract shall be rendered to the public agency and not to the state.

SEC. 8. Section 20862.8 of the Government Code is amended to read:

20862.8. A local miscellaneous member and a local safety member, whose effective date of retirement is within four months of separation from employment with the employer which granted the sick leave credit, shall be credited at his retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by his employer.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after September 26, 1974, by express provision in the contract making the contracting agency subject to this section.

This section shall only apply to members who retire after the effective date of the contract amendment.

SEC. 9. Section 20864 of the Government Code is amended to read:

20864. For the purpose of calculating retirement benefits based on part-time service, except under Section 21258.1, compensation earnable shall be taken as the compensation which would have been earnable if the employment had been on a full-time basis and the member had worked full time.

SEC. 10. Section 21364 of the Government Code is amended to read:

21364. The special death benefit consists of the following:

(a) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the annuity provided under subdivision (d) is paid.

(b) An amount sufficient, when added to the amount provided under subdivision (a), to provide, when applied according to tables adopted by the board, a monthly death allowance equal to one-half of his or her final compensation in the membership category applicable to him or her at the time of the injury or the onset of the disease causing death, payable to the surviving spouse to whom he or she was married prior to sustaining the injury or disease resulting in death, as long as the surviving spouse lives or until his or her remarriage; or, if there is no surviving spouse or if the spouse dies or remarries before all children of the deceased member attain age 22,

to his or her children under 22 collectively until every child shall have died, married, or attained age 22. However, no child shall receive any part of the allowance after marrying or attaining age 22.

(c) During the lifetime of the surviving spouse or until the spouse remarries, an additional percentage of the death benefit allowed by this section, exclusive of the annuity under subdivision (d), shall be paid to the spouse of a member who is killed in the performance of his or her duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his or her duty, for each of his or her children during the lifetime of the child, or until the child marries or reaches the age of 22, as follows: for one child, 25 percent; for two children, 40 percent; and for three or more children, 50 percent.

(d) An annuity which is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of his or her death, plus his or her accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to him or her at the time of the injury or the onset of the disease causing death.

If the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches the age of 22.

The computation for time prior to entering the membership category applicable to the deceased at the time of the injury or the onset of the disease causing death shall be based on the compensation earnable by him or her in the position first held by him or her in that category.

"Spouse," for purposes of this section, means a wife or husband.

(e) On and after October 1, 1965, this section shall apply to all contracting agencies and to the employees of all contracting agencies whether or not the agencies have previously elected to be subject to this section.

Any child whose eligibility for an allowance pursuant to this section, commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his adoption.

SEC. 11. Section 21382.2 of the Government Code is amended to read:

21382.2. (a) In lieu of benefits provided in Section 21382, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because

of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) if there is one such child or five hundred thirty-eight dollars ($538) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an

allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if such surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

A contracting agency may, by amending its contract, elect to make this section applicable to local members employed by the agency.

SEC. 12. Section 21385 of the Government Code is amended to read:

21385. This article shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this article by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees pursuant to Section 20457 is not required, or, in the case of contracts made after the time this article takes effect, by express provision in such contract making the contracting agency subject to the provisions of this article.

Except as provided in Section 21385.5, this article shall not in any event apply to employees of a contracting agency whose services are included in the federal system. Members who are employees of a contracting agency when the agency becomes subject to this article and whose services are not included in the federal system shall have the right to elect to be subject to this article, such election to be made in the manner, and within the time periods, specified in rules adopted by the board. Employees of such contracting agency becoming members thereafter shall be subject to this article without

election.

CHAPTER 433

An act to amend Section 1382 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1382 of the Penal Code is amended to read:

1382. The court, unless good cause to the contrary is shown, must order the action to be dismissed in the following cases:

1. When a person has been held to answer for a public offense and an information is not filed against him within 15 days thereafter.

2. When a defendant is not brought to trial in a superior court within 60 days after the finding of the indictment or filing of the information or, in case the cause is to be tried again following a mistrial, an order granting a new trial from which an appeal is not taken, or an appeal from the superior court, within 60 days after such mistrial has been declared, after entry of the order granting the new trial, or after the filing of the remittitur in the trial court, or after the issuance of a writ or order which in effect grants a new trial, within 60 days after notice of the writ or order is filed in the trial court and served upon the prosecuting attorney, or within 90 days after notice of the writ or order is filed in the trial court and served upon the prosecuting attorney in any case where the district attorney chooses to resubmit the case for a preliminary examination after an appeal or the issuance of a writ reversing a judgment of conviction upon a plea of guilty prior to a preliminary hearing in a municipal or justice court; except that an action shall not be dismissed under this subdivision if it is set for trial on a date beyond the 60-day period at the request of the defendant or with his consent, express or implied, or because of his neglect or failure to appear and if the defendant is brought to trial on the date so set for trial or within 10 days thereafter. Whenever a case is set for trial beyond the 60-day period at the request of the defendant, and the defendant fails to appear on the date set for trial and a bench warrant is issued, the defendant shall be brought to trial within 60 days after the defendant next appears in the superior court. Whenever a case is set for trial beyond the 60-day period at the request of the defendant, the court may not grant a motion of the defendant to vacate the date set for trial and to set an earlier trial date unless all parties are properly noticed and the court finds good cause for granting such motion.

3. Regardless of when the complaint is filed, when a defendant in a misdemeanor case in an inferior court is not brought to trial within

30 days after he is arraigned if he is in custody at the time of arraignment, or in all other cases, within 45 days after his arraignment, or in case the cause is to be tried again following a mistrial, an order granting a new trial from which an appeal is not taken, or an appeal from the inferior court, within 30 days after such mistrial has been declared, after entry of the order granting the new trial, or after the remittitur is filed in the trial court or, if the new trial is to be held in the superior court, within 30 days after the judgment on appeal becomes final; except that an action shall not be dismissed under this subdivision (1) if it is set for trial on a date beyond the prescribed period at the request of the defendant or with his consent, express or implied, and the defendant is brought to trial on the date so set for trial or within 10 days thereafter or (2) if it is not tried on the date set for trial because of the defendant's neglect or failure to appear, in which case he shall be deemed to have been arraigned within the meaning of this subdivision on the date of his subsequent arraignment on a bench warrant or his submission to the court.

If the defendant is not represented by counsel, he shall not be deemed under this section to have consented to the date for his trial unless the court has explained to him his rights under this section and the effect of his consent.

CHAPTER 434

An act to amend Section 44842 of the Education Code, relating to school districts.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 44842 of the Education Code is amended to read:

44842. (a) If, without good cause, a probationary or permanent employee of a school district fails prior to July 1st of any school year to notify the governing board of the district of his or her intention to remain or not to remain in the service of the district, as the case may be, during the ensuing school year if a request to give such notice, including a copy of this section, shall have been personally served upon the employee, or mailed to him or her by United States certified mail with return receipt requested to his or her last known place of address, by the clerk or secretary of the governing board of the school district, not later than the preceding May 30th, the employee may be deemed to have declined employment and his or her services as an employee of the district may be terminated on June 30th of that year.

(b) If, without good cause, a probationary or permanent

employee of a school district fails to report for duty at the beginning of the ensuing school year after having notified the governing board of the district of his or her intention to remain in the service of the district in accordance with the procedures specified above, the employee may be deemed to have declined employment and his or her services as an employee of the district may be terminated on the day following the 20th consecutive day of absence. No school district may terminate any employee pursuant to this subdivision unless the district has specifically notified the employee, at least five days in advance, of the time and place at which the employee was to report to work, and the employee did not request or was not granted a leave of absence authorized by the governing board of the district.

This subdivision is applicable only to employees who were on leave of absence for 20 or more consecutive working days after April 30th of the previous school year.

CHAPTER 435

An act to repeal Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to add Chapter 5 (commencing with Section 5100) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 5100) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 5. RELIEF OF BIDDERS

5100. (a) "Public entity" means the state, Regents of the University of California, a county, city and county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

(b) "Bid" means any proposal submitted to a public entity in competitive bidding for the construction, alteration, repair, or improvement of any structure, building, road or other improvement of any kind.

5101. A bidder shall not be relieved of his or her bid unless by consent of the awarding authority nor shall any change be made in his or her bid because of mistake, but he or she may bring an action against the public entity in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount

forfeited, without interest or costs.

The bond of an admitted surety insurer shall be filed with the complaint, in such sum as the court may fix, but not less than five hundred dollars ($500), conditioned that, if the plaintiff fails to recover judgment, he or she shall pay all costs incurred by the public entity in the suit, including a reasonable attorney's fee to be fixed by the court.

5102. The complaint shall be filed, and summons served on the director of the department or the chief of the division or other head of the public entity under which the work is to be performed or an appearance made, within 90 days after the opening of the bid; otherwise, the action shall be dismissed.

5103. The bidder shall establish to the satisfaction of the court that:

(a) A mistake was made.

(b) He or she gave the public entity written notice within five days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred.

(c) The mistake made the bid materially different than he or she intended it to be.

(d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.

5104. Other than the notice to the public entity, no claim is required to be filed before bringing the action.

5105. A bidder who claims a mistake or who forfeits his or her bid security shall be prohibited from participating in further bidding on the project on which the mistake was claimed or security forfeited.

5106. If the public entity deems it is for its best interest, it may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest bidder.

If the second lowest bidder fails or refuses to execute the contract, the public entity may likewise award it to the third lowest bidder.

On the failure or refusal of the second or third lowest bidder to whom a contract is so awarded to execute it, his or her bidder's security shall be likewise forfeited.

5107. In all actions brought under the provisions of this chapter, all courts wherein such actions are or may hereafter be pending, shall give such actions preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined.

5108. This chapter shall not apply to contracts awarded pursuant to Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of this code, nor to contracts awarded pursuant to Chapter 14 (commencing with Section 25200) of Division 18 of Part 4 of the Education Code.

CHAPTER 436

An act to amend Sections 54776 and 54776.1 of the Government Code, relating to local agency formation commissions.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 54776 of the Government Code is amended to read:

54776. The board of supervisors shall, in conformance with Section 54776.1, furnish the commission with necessary quarters, equipment, and supplies, and the usual and necessary operating expenses incurred by the commission shall be a county charge.

SEC. 2. Section 54776.1 of the Government Code is amended to read:

54776.1. On or before the 10th day of June the commission shall prepare and transmit to the board of supervisors an estimate of the amount of money needed for the purposes prescribed by Section 54776 during the following fiscal year. The board of supervisors shall provide for the use of the commission during such fiscal year not less than the amount of money equal to any of the following:

(a) The amount fixed by the commission.

(b) The amount provided in the prior fiscal year increased by the same percentage as the appropriations limit of the county for such fiscal year will be increased from the prior fiscal year.

(c) The amount determined in (b) plus any additional amount the board deems necessary.

The county auditor shall audit and allow or reject all claims for expenditures for county charges incurred pursuant to the provisions of this chapter in lieu of, and with the same effect as, allowance or rejection of claims by the board of supervisors.

CHAPTER 437

An act to amend Section 3011 of the Business and Professions Code, relating to the State Board of Optometry.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 3011 of the Business and Professions Code is amended to read:

3011. Members of the board, except the public members, shall be

appointed only from persons who are registered optometrists of the State of California and actually engaged in the practice of optometry at the time of appointment or who are members of the faculty of a school of optometry. The public members shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

No person, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the board of trustees of any school of optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale.

No person, including the public members, shall serve as a member of the board for more than two consecutive terms.

A member of the faculty of a school of optometry may be appointed to the board; however, no more than two faculty members of schools of optometry may be on the board at any one time. Faculty members of the board shall not serve as public members.

CHAPTER 438

An act to amend Section 1524 of the Penal Code, relating to search warrants.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom he or she may have delivered it for the purpose of concealing it or preventing its being discovered.

(4) When the property or things to be seized consist of any item or constitutes any evidence which tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence which tends to show that sexual exploitation of a child, in violation of Section 311.3, has occurred or is occurring.

(b) The property or things described in subdivision (a) may be taken on the warrant from any place, or from any person in whose

possession it may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person, who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a clergyman as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

At the hearing the party searched shall be entitled to raise any issues which may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. Any such hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make any motions or present any evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case the matter shall be heard at the earliest possible time.

(3) Any such warrant must, whenever practicable, be served during normal business hours. In addition, any such warrant must be served upon a party who appears to have possession or control of the items sought. If after reasonable efforts, the party serving the warrant is unable to locate any such person, the special master shall seal and return to the court for determination by the court any item which appear to be privileged as provided by law.

(d) As used in this section, a "special master" is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys which is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity which caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code,

relating to claims and actions against public entities and public employees. In selecting the special master the court shall make every reasonable effort to insure that the person selected has no relationship with any of the parties involved in the pending matter. Any information obtained by the special master shall be confidential and shall not be divulged except in direct response to inquiry by the court.

In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in such a manner as to permit the party serving the warrant or his or her designee to accompany the special master as he or she conducts his search. However, that party or his or her designee shall not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section "documentary evidence" includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films or papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

CHAPTER 439

An act to amend Section 7020 of the Civil Code, relating to restraining orders.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 7020 of the Civil Code is amended to read:

7020. (a) During the pendency of any proceeding under this part, upon application in the manner provided by Section 527 of the Code of Civil Procedure by the party who has care, custody, and control of the minor child, the superior court may issue ex parte orders (1) enjoining any party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, or disturbing the peace of the other party or the minor child; (2) excluding one party from the dwelling of the party who has care, custody and control of

the child upon showing that the party to be excluded has assaulted or threatens to assault the other party or the minor child and that physical or emotional harm would otherwise result to the party or the minor child; and (3) enjoining a party from specified behavior which the court determines is necessary to effectuate orders under paragraph (1) or (2). In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

(b) The court may issue upon notice and a hearing any of the orders set forth in subdivision (a). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed one year, unless otherwise terminated by the court, extended by mutual consent of the parties or extended by further order of the court on the motion of any party.

(c) Any order issued pursuant to subdivision (a) or (b) shall state on its face the date of expiration of the order.

(d) The court shall order the party who obtained the order or the attorney for the party to deliver or the clerk to mail a copy of any order, or extension, modification or termination thereof, granted pursuant to subdivision (a) or (b), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the party or the attorney for the party, having jurisdiction over the residence of the party who has care, custody and control of the minor child and such other locations where the court determines that acts of domestic violence against the party and the minor child are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to subdivision (a) or (b) to any law enforcement officer responding to the scene of reported domestic violence.

(e) Any willful and knowing violation of any order granted pursuant to subdivision (a) or (b) shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

CHAPTER 440

An act to amend Section 638 of the Code of Civil Procedure, relating to actions.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 638 of the Code of Civil Procedure is amended to read:

638. A reference may be ordered upon the agreement of the parties filed with the clerk, or judge, or entered in the minutes or in the docket, or upon the motion of a party to a written contract or lease which provides that any controversy arising therefrom shall be heard by a reference if the court finds a reference agreement exists between the parties:

1. To try any or all of the issues in an action or proceeding, whether of fact or of law, and to report a finding and judgment thereon;

2. To ascertain a fact necessary to enable the court to determine an action or proceeding.

CHAPTER 441

An act to amend Section 926 of the Penal Code, relating to grand juries.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 926 of the Penal Code is amended to read:

926. (a) If, in the judgment of the grand jury, the services of one or more experts are necessary for the purposes of Sections 925, 925a, 928, 933.1, and 933.5 or any of them, the grand jury may employ one or more experts, at an agreed compensation, to be first approved by the court. If, in the judgment of the grand jury, the services of assistants to such experts are required, the grand jury may employ such assistants, at a compensation to be agreed upon and approved by the court. Expenditures for the services of experts and assistants for the purposes of Section 933.5 shall not exceed the sum of thirty thousand dollars ($30,000) annually, unless such expenditures shall also be approved by the board of supervisors.

(b) When making an examination of the books, records, accounts, and documents maintained and processed by the county assessor, the

grand jury, with the consent of the board of supervisors, may employ expert auditors or appraisers to assist in the examination. Auditors and appraisers, while performing pursuant to the directive of the grand jury, shall have access to all records and documents that may be inspected by the grand jury subject to the same limitations on public disclosure as apply to the grand jury.

(c) Any contract entered into by a grand jury pursuant to this section may include services to be performed after the discharge of the jury, but in no event may a jury contract for services to be performed later than six months after the end of the fiscal year during which the jury was impaneled.

CHAPTER 442

An act to amend Section 541 of the Probate Code, relating to probate procedures.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 541 of the Probate Code is amended to read:

541. Except as otherwise provided in this section, every person to whom letters testamentary or of administration are directed to issue (unless the testator has waived such requirement) shall, before receiving them, execute a bond to the State of California, with two or more persons or an authorized surety company as surety, to be approved by a judge of the superior court if the surety is not an authorized surety company, conditioned that the executor or administrator shall faithfully execute the duties of the trust according to law. In form the bond shall be joint and several. If the bond is to be given by individual persons, the penalty shall be not less than twice the value of the personal property and twice the value of the probable annual income from the real property belonging to the estate, which values shall be ascertained by the court or judge by examining on oath the party applying, and any other persons. If the bond is to be given by an authorized surety company, the court in its discretion may fix the amount of the bond at not less than the value of the personal property and the probable value of the annual rents, issues and profits of all of the property belonging to the estate.

Unless the will provides for a requirement of a bond, if a verified petition for letters testamentary or of administration alleges that all beneficiaries under the last will and testament of the decedent, or that all heirs at law of the decedent, have waived the filing of a bond, the court, on the hearing of the petition, if the petition so requests, may direct that no bond be filed.

CHAPTER 443

An act to add Sections 26603.1 and 73803 to the Government Code, relating to courts.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 26603.1 is added to the Government Code, to read:

26603.1. (a) In Merced County, the board of supervisors may adopt a regulation requiring the marshal to serve both municipal and superior courts.

(b) Upon adoption of a regulation pursuant to subdivision (a), the sheriff in Merced County shall be relieved of any obligation imposed by Section 26603.

(c) Notwithstanding any other provision of the law, in Merced County, the marshal may have the duty to serve all writs, notices, and other process issued by any state court, or other competent authority.

(d) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by law, nor shall it limit the authority of a sheriff of the county or any other peace officer to serve warrants of arrest or other process specifically directed to the sheriff or any other peace officer by a court.

(e) The deputy sheriff IIs serving the Superior Court in Merced County on the effective date of this act may, at the option of the marshal be transferred into the marshal's office without loss of pay or benefit.

SEC. 2. Section 73803 is added to the Government Code, to read:

73803. (a) In Merced County, the board of supervisors may adopt a regulation requiring the marshal to serve both municipal and superior courts.

(b) Upon adoption of a regulation pursuant to subdivision (a), the sheriff in Merced County shall be relieved of any obligation imposed by Section 26603.

(c) Notwithstanding any other provision of law, in Merced County, the marshal may have the duty to serve all writs, notices, and other process issued by any state court, or other competent authority.

(d) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by law, nor shall it limit the authority of a sheriff of the county or any other peace officer to serve warrants of arrest or other process specifically directed to the sheriff or any other peace officer by a court.

(e) The deputy sheriff IIs serving the Superior Court in Merced County on the effective date of this act may, at the option of the marshal, be transferred into the marshal's office without loss of pay or benefit.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 444

An act to amend Section 1368.1 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1368.1 of the Penal Code is amended to read:

1368.1. (a) If the action is on a complaint charging a felony, proceedings to determine mental competence shall be held prior to the filing of an information unless the counsel for the defendant requests a preliminary examination under the provisions of Section 859b. At such preliminary examination, counsel for the defendant may (1) demur, (2) move to dismiss the complaint on the ground that there is not reasonable cause to believe that a felony has been committed and that the defendant is guilty thereof, or (3) make a motion under Section 1538.5.

(b) If the action is on a complaint charging a misdemeanor, counsel for the defendant may (1) demur, (2) move to dismiss the complaint on the ground that there is not reasonable cause to believe that a public offense has been committed and that the defendant is guilty thereof, or (3) make a motion under Section 1538.5.

(c) In ruling upon any demurrer or motion described in subdivision (a) or (b), the court may hear any matter which is capable of fair determination without the personal participation of the defendant.

(d) In any case originating in a municipal or justice court, any demurrer or motion described in subdivision (a) or (b) shall be made in the court having jurisdiction over the complaint. The defendant shall not be certified to the superior court by the municipal or justice court until the demurrer or motion has been decided.

CHAPTER 445

An act to amend Section 32126 of the Health and Safety Code, relating to hospital districts and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 32126 of the Health and Safety Code is amended to read:

32126. The board of directors may provide for the operation and maintenance through tenants of the whole or any part of any hospital acquired or constructed by it pursuant to this division, and for such purpose may enter into any lease agreement which it believes will best serve the interest of the district; provided, that any such lease entered into for the operation of any hospital shall require the tenant or lessee to conform to and abide by each and all of the provisions of Section 32128 of this article. No such lease for the operation of an entire hospital shall run for a term in excess of 30 years. No such lease for the operation of less than an entire hospital shall run for a term in excess of 10 years.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the orderly administration of the operation and maintenance of hospital districts, it is necessary that this act take immediate effect.

CHAPTER 446

An act to add Section 5 to an initiative act entitled the "Osteopathic Act," approved by the electors November 7, 1922, relating to physicians and surgeons.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 5 is added to the act cited in the title, to read:

Sec. 5. Notwithstanding any other provision of law, on and after the effective date of this section, a graduate of an osteopathic medical school shall apply for a physician's and surgeon's certificate from the

Board of Osteopathic Examiners, which has the sole power to issue a physician's and surgeon's certificate to an osteopathic-trained physician and surgeon.

It shall be unprofessional conduct for a physician and surgeon licensed by the Board of Osteopathic Examiners to apply for a physician's and surgeon's certificate from a board other than the Board of Osteopathic Examiners.

This section shall not prohibit the renewal of a physician's and surgeon's certificate which was issued by a board other than the Board of Osteopathic Examiners prior to the effective date of this section.

CHAPTER 447

An act to add Section 13217 to the Health and Safety Code, relating to fire protection, and making an appropriation therefor.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 13217 is added to the Health and Safety Code, to read:

13217. (a) The fire department of any city or county may annually inspect all high-rise structures for compliance with building standards and other regulations of the State Fire Marshal. If a local agency elects to perform the inspection, the results of the inspection shall be submitted to the State Fire Marshal's office in a form and manner approved by the State Fire Marshal no later than 30 days after the date of the inspection. If the local fire department elects not to conduct an inspection, the State Fire Marshal shall conduct the inspection.

(b) A local agency which inspects a high-rise structure pursuant to subdivision (a) may charge and collect a fee for the inspection from the owner of the high-rise structure in an amount, as determined by the local agency, sufficient to pay its costs of that inspection.

(c) If the State Fire Marshal conducts an inspection pursuant to subdivision (a), the State Fire Marshal shall determine his or her costs of the inspection and submit a claim for that amount, together with a designation of the city or county in which the inspection was conducted, to the Controller. Notwithstanding Section 11005 of the Revenue and Taxation Code, the Controller shall deduct the claimed amount from the moneys allocated pursuant to Section 11005 of the Revenue and Taxation Code to the designated city or county and transfer that amount to the State Fire Marshal to pay the costs of the inspections, and the Controller shall distribute the balance to the

designated city or county.

CHAPTER 448

An act to amend Sections 158 and 418 of the Corporations Code, relating to corporations.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 158 of the Corporations Code is amended to read:

158. (a) "Close corporation" means a corporation whose articles contain, in addition to the provisions required by Section 202, a provision that all of the corporation's issued shares of all classes shall be held of record by not more than a specified number of persons, not exceeding 35, and a statement "This corporation is a close corporation."

(b) The special provisions referred to in subdivision (a) may be included in the articles by amendment, but if such amendment is adopted after the issuance of shares only by the affirmative vote of all of the issued and outstanding shares of all classes.

(c) The special provisions referred to in subdivision (a) may be deleted from the articles by amendment, or the number of shareholders specified may be changed by amendment, but if such amendment is adopted after the issuance of shares only by the affirmative vote of at least two-thirds of each class of the outstanding shares; provided, however, that the articles may provide for a lesser vote, but not less than a majority of the outstanding shares, or may deny a vote to any class, or both.

(d) In determining the number of shareholders for the purposes of the provision in the articles authorized by this section, a husband and wife and the personal representative of either shall be counted as one regardless of how shares may be held by either or both of them, a trust or personal representative of a decedent holding shares shall be counted as one regardless of the number of trustees or beneficiaries and a partnership or corporation or business association holding shares shall be counted as one (except that any such trust or entity the primary purpose of which was the acquisition or voting of the shares shall be counted according to the number of beneficial interests therein).

(e) A corporation shall cease to be a close corporation upon the filing of an amendment to its articles pursuant to subdivision (c) or if it shall have more than the maximum number of holders of record of its shares specified in its articles as a result of an inter vivos transfer of shares which is not void under subdivision (d) of Section 418, the

transfer of shares on distribution by will or pursuant to the laws of descent and distribution, the dissolution of a partnership or corporation or business association or the termination of a trust which holds shares, by court decree upon dissolution of a marriage or otherwise by operation of law. Promptly upon acquiring more than the specified number of holders of record of its shares, a close corporation shall execute and file an amendment to its articles deleting the special provisions referred to in subdivision (a) and deleting any other provisions not permissible for a corporation which is not a close corporation, which amendment shall be promptly approved and filed by the board and need not be approved by the outstanding shares.

(f) Nothing contained in this section shall invalidate any agreement among the shareholders to vote for the deletion from the articles of the special provisions referred to in subdivision (a) upon the lapse of a specified period of time or upon the occurrence of a certain event or condition or otherwise.

(g) The following sections contain specific references to close corporations: 186, 202, 204, 300, 418, 421, 706, 1111, 1201, 1800 and 1904.

SEC. 2. Section 418 of the Corporations Code is amended to read:

418. (a) There shall also appear on the certificate (unless stated or summarized under subdivision (a) or (b) of Section 417) the statements required by all of the following clauses to the extent applicable:

(1) The fact that the shares are subject to restrictions upon transfer.

(2) If the shares are assessable or are not fully paid, a statement that they are assessable or the statements required by subdivision (d) of Section 409 if they are not fully paid.

(3) The fact that the shares are subject to a voting agreement under subdivision (a) of Section 706 or an irrevocable proxy under subdivision (e) of Section 705 or restrictions upon voting rights contractually imposed by the corporation.

(4) The fact that the shares are redeemable.

(5) The fact that the shares are convertible and the period for conversion.

Any such statement or reference thereto (Section 174) on the face of the certificate required by paragraph (1) or (2) shall be conspicuous.

(b) Unless stated on the certificate as required by subdivision (a), no restriction upon transfer, no liability to assessment or for the unpaid portion of the subscription price, no right of redemption and no voting agreement under subdivision (a) of Section 706 nor irrevocable proxy under subdivision (e) of Section 705 nor voting restriction imposed by the corporation shall be enforceable against a transferee of the shares without actual knowledge of such restriction, liability, right, agreement or proxy. For the purpose of this subdivision, transferee includes a purchaser from the corporation.

(c) All certificates representing shares of a close corporation shall contain in addition to any other statements required by this section, the following conspicuous legend on the face thereof: "This corporation is a close corporation. The number of holders of record of its shares of all classes cannot exceed _____ [a number not in excess of 35]. Any attempted voluntary inter vivos transfer which would violate this requirement is void. Refer to the articles, bylaws and any agreements on file with the secretary of the corporation for further restrictions."

(d) Any attempted voluntary inter vivos transfer of the shares of a close corporation which would result in the number of holders of record of its shares exceeding the maximum number specifed in its articles is void if the certificate contains the legend required by subdivision (c).

CHAPTER 449

An act to amend Section 4213 of the Civil Code, and to amend Section 26840.8 of the Government Code, relating to marriage.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 4213 of the Civil Code is amended to read:

4213. (a) When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife they may without a license, be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. Except as provided in Section 4213.1, an authorization for the performance of a marriage pursuant to this section shall be issued by the county clerk, the clerk of the court, or a judge in private chambers, upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code. The authorization shall be presented to the person performing the ceremony. Upon performance of the ceremony, the certificate of marriage shall be filled out by the parties to the marriage and authenticated by the person performing the ceremony. The certificate shall be filed by the person performing the ceremony with the office of the county clerk in the county in which the authorization was issued within four days after the performance of the ceremony. Except as provided in Section 4213.2, the county clerk shall maintain the certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of

good cause.

Upon performance of the ceremony, the person performing the ceremony shall give a copy of the confidential marriage certificate to the parties who were married. The person performing the ceremony shall also provide the parties who were married with an application for a certified copy of the confidential marriage certificate which shall be filled out by the parties and sent by the person performing the marriage to the county clerk.

The form of the authorization and of the certificate of marriage, which shall be incorporated in one document, shall be prescribed by the State Registrar of Vital Statistics. The form shall be designed in a manner such that the parties to be married must declare or affirm that they meet all of the requirements of this section.

(b) In addition to those persons enumerated in subdivision (a), an authorization for the performance of a marriage pursuant to this section may also be issued by any other person authorized by law to administer oaths, upon the personal appearance of the parties. The county clerk shall provide an authorization form for the performance of a marriage upon the request of any person so authorized and his or her payment of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse the person authorizing the marriage for the amount of the fees.

(c) The county clerk shall, not less than quarterly, transmit copies of all confidential marriage certificates filed after January 1, 1982, to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this section, but shall not disclose the date of such a marriage.

(d) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage; however, the date of the marriage and any other information contained in the certificate shall not be disclosed except upon order of the superior court.

(e) The county clerk may issue a certified copy of a confidential marriage certificate to the parties to the marriage if both the husband and wife appear in person, provide acceptable identification, and sign a request therefor.

SEC. 2. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage pursuant to subdivision (a) of Section 4213 of the Civil Code or the county clerk, upon providing a blank authorization form pursuant to subdivision (b) of Section 4213 of the Civil Code, shall collect a fee of eight dollars ($8) at the time of providing the authorization. The fee shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 3. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage pursuant to subdivision (a) of Section 4213 of the Civil Code or the county clerk, upon providing a blank authorization form pursuant to subdivision (b) of Section 4213 of the Civil Code, shall collect a fee of thirteen dollars ($13) at the time of providing the authorization. The fee shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1330 are both chaptered and become effective January 1, 1983, both bills amend Section 26840.8 of the Government Code, and this bill is chaptered after Senate Bill 1330, that the amendments to Section 26840.8 proposed by both bills be given effect and incorporated in Section 26840.8 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill 1330 are both chaptered and become effective January 1, 1983, both amend Section 26840.8, and this bill is chaptered after Senate Bill 1330, in which case Section 2 of this act shall not become operative.

CHAPTER 450

An act to amend Section 12510.5 of the Business and Professions Code, relating to petroleum products, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 12510.5 of the Business and Professions Code is amended to read:

12510.5. Notwithstanding the provisions of Section 12510, a person who sells at retail less than 5,000 gallons of gasoline per month or less than 60,000 gallons of gasoline per year shall be authorized to use, until January 1, 1984, a measuring device which is presently limited by design to computing one-half the total price by multiplying the amount delivered by one-half the price per unit.

SEC. 2. Notwithstanding the provisions of Section 12510, no criminal penalty shall be imposed on any person described by Section 12510.5 of the Business and Professions Code who uses the measuring device authorized by that section on and after January 1, 1982, and before the effective date of this act.

SEC. 3. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because of the inordinate expense that would be imposed upon small retail gasoline dealers unless they are exempted from the provisions of Section 12510 of the Business and Professions Code it is necessary that this act go into immediate effect.

CHAPTER 451

An act to amend Section 1091 of the Government Code, relating to public officers and employees.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1091 of the Government Code is amended to read:

1091. (a) An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract and if the fact of such interest is disclosed to the body of the board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract 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.

(b) As used in this article, "remote interest" means any of the following:

(1) That of a nonsalaried officer of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Section 1091.5.

(2) That of an employee or agent of the contracting party, if such contracting party has 10 or more other employees and if the officer was an employee or agent of such contracting party for at least three years prior to the officer initially accepting his or her office.

For the purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though such contracting 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

contracting party is the same or substantially similar to that which existed before such transfer or change in organization. For the purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such contracting party.

(3) That of a parent in the earnings of his or her minor child for personal services.

(4) That of a landlord or tenant of the contracting party.

(5) That of an attorney of the contracting party.

(6) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

(7) That of a supplier of goods or services when such goods or services had been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.

(8) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.

(9) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

(10) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.

(c) The provisions of this section shall not be applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

(d) The willful failure of an officer to disclose the fact of his or her interest in a contract pursuant to this section shall be punishable as provided in Section 1097. Such violation shall not void the contract, however, unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

CHAPTER 452

An act to amend Sections 1985 and 1987.5 of the Code of Civil Procedure, to amend Sections 1560 and 1563 of the Evidence Code, and to amend Section 1582 of the Financial Code, relating to subpoenas.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1985 of the Code of Civil Procedure is amended to read:

1985. The process by which the attendance of a witness is required is the subpoena. It is a writ or order directed to a person and requiring his attendance at a particular time and place to testify as a witness. It may also require him to bring with him any books, documents, or other things under his control which he is bound by law to produce in evidence. When a county recorder is using the microfilm system for recording, and he is subpoenaed to present a record, he shall be deemed to have complied with the subpoena if he produces a certified copy thereof.

A copy of an affidavit shall be served with a subpoena duces tecum issued before trial, showing good cause for the production of the matters and things described in such subpoena, specifying the exact matters or things desired to be produced, setting forth in full detail the materiality thereof to the issues involved in the case, and stating that the witness has the desired matters or things in his possession or under his control.

The clerk, or if there be no clerk, the judge, shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service. An attorney at law who is the attorney of record in an action or proceeding, may sign and issue a subpoena to require attendance before the court in which the action or proceeding is pending or at the trial of an issue therein, or upon the taking of a deposition in an action or proceeding pending therein; the subpoena in such a case need not be sealed. An attorney at law who is the attorney of record in an action or proceeding, may sign and issue a subpoena duces tecum to require production of the matters or things described in the subpoena. Nothing herein shall authorize the issuance of a subpoena or subpoena duces tecum in cases provided for by Sections 68097.1 to 68097.10, inclusive, of the Government Code unless the required payment or deposit has been made.

SEC. 2. Section 1987.5 of the Code of Civil Procedure is amended to read:

1987.5. The service of a subpoena duces tecum is invalid unless at the time of such service a copy of the affidavit upon which the subpoena is based is served on the person served with the subpoena. The original affidavit shall be filed with the court in which the action is pending prior to the time designated for the appearance of the witness and production of the matters and things described in the subpoena, and in the case of a subpoena duces tecum which requires appearance and the production of matters and things at the taking of a deposition, the original shall be so filed not less than five days

before such designated time, unless the court otherwise orders. In the case of a subpoena duces tecum which requires appearance and the production of matters and things at the taking of a deposition, the subpoena shall not be valid unless a copy of the affidavit upon which the subpoena is based and the designation of the materials to be produced, as set forth in the subpoena, is attached to the notice of taking the deposition served upon each party or its attorney as provided in Chapter 3 (commencing with Section 2002). If matters and things are produced pursuant to a subpoena duces tecum in violation of this section, any other party to the action may file a motion for, and the court may grant, an order providing appropriate relief, including, but not limited to, exclusion of the evidence affected by the violation, a retaking of the deposition notwithstanding any other limitation on discovery proceedings, or a continuance.

SEC. 2.5. Section 1560 of the Evidence Code is amended to read:

1560. (a) As used in this article:

(1) "Business" includes every kind of business described in Section 1270.

(2) "Record" includes every kind of record maintained by such a business.

(b) Except as provided in Section 1564, when a subpoena duces tecum is served upon the custodian of records or other qualified witness of a business in an action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness, within five days after the receipt of the subpoena in any criminal action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, or within fifteen days after the receipt of the subpoena in any civil action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, delivers by mail or otherwise a true, legible, and durable copy of all the records described in the subpoena to the clerk of court or to the judge if there be no clerk or to such other person as described in subdivision (a) of Section 2018 of the Code of Civil Procedure, together with the affidavit described in Section 1561.

(c) The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of such court, or to the judge thereof if there be no clerk.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition or at his

place of business.

(3) In other cases, to the officer, body, or tribunal conducting the hearing, at a like address.

(d) Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or other hearing, upon the direction of the judge, officer, body, or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition, or hearing. Records which are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom received.

SEC. 3. Section 1563 of the Evidence Code is amended to read:

1563. (a) This article shall not be interpreted to require tender or payment of more than one witness fee and one mileage fee or other charge unless there is an agreement to the contrary.

(b) All reasonable costs incurred in a civil proceeding by any witness which is not a party with respect to the production of all or any part of business records the production of which is requested pursuant to a subpoena duces tecum may be charged against the party serving the subpoena duces tecum.

(1) "Reasonable costs," as used in this section, shall mean ten cents ($.10) per page for standard reproduction of documents of a size of 8½ by 14 inches or less, and actual costs for reproduction of oversize documents or documents the reproduction of which require special processing, necessarily done in responding to the subpoena together with additional reasonable clerical costs incurred in locating and making the records available. The clerical costs may be billed at the rate of ten dollars ($10) per hour per person, computed on the basis of two dollars and fifty cents ($2.50) per quarter hour or fraction thereof, and actual costs, if any, charged to the witness by a third person for retrieval and return of records held by such a third person.

(2) The requesting party shall not be required to pay those costs or any estimate thereof prior to the time such records are available for delivery pursuant to the subpoena, but the witness may demand payment of costs pursuant to this section simultaneous with actual delivery of the subpoenaed records, and until such time as payment is made, is under no obligation to deliver the records.

(3) The witness shall submit an itemized statement for such costs to the requesting party setting forth the reproduction and clerical costs incurred by the witness. Upon demand by the requesting party, the witness shall furnish a statement setting forth the actions taken by the witness in justification of such costs.

(4) The requesting party may petition the court in which the action is pending to recover from the witness all or a part of the costs paid to the witness, or to reduce all or a part of the costs charged by the witness, pursuant to this subdivision, on the grounds that such costs were excessive. Upon the filing of the petition the court shall

issue an order to show cause and from the time the order is served on the witness the court has jurisdiction over the witness. The court may hear testimony on the order to show cause and if it finds that the costs demanded and collected, or charged but not collected, exceed the amount authorized by this subdivision, it shall order the witness to remit to the requesting party, or reduce its charge to the requesting party by an amount equal to, the amount of the excess. In the event that the court finds the costs excessive and charged in bad faith by the witness, the court shall order the witness to remit the full amount of the costs demanded and collected, or excuse the requesting party from any payment of costs charged but not collected, and the court shall also order the witness to pay the requesting party the amount of the reasonable expenses incurred in obtaining the order including attorney's fees. If the court finds the costs were not excessive, the court shall order the requesting party to pay the witness the amount of the reasonable expenses incurred in defending the petition, including attorney's fees.

(5) If a subpoena is served to compel the production of business records and is subsequently withdrawn, or is quashed, modified or limited on a motion made other than by the witness, the witness shall be entitled to reimbursement pursuant to paragraph (1) for all costs incurred in compliance with the subpoena to the time that the requesting party has notified the witness that the subpoena has been withdrawn or quashed, modified or limited. In the event the subpoena is withdrawn or quashed, if those costs are not paid within 30 days after demand therefor, the witness may file a motion in the court in which the action is pending for an order requiring payment, and the court shall award the payment of expenses and attorney's fees in the manner set forth in paragraph (4).

(6) Where the personal attendance of the custodian of such records or other qualified witness is not required, the sole fees for complying with such subpoena shall be those provided for in this subdivision, except that where no photocopying or reproduction is performed by the custodian of records or other qualified witness the sole fee for making such records available shall not exceed twelve dollars ($12).

(c) When the personal attendance of the custodian of a record or other qualified witness is required pursuant to Section 1564, in a civil proceeding, he or she shall be entitled to the same witness fees and mileage permitted in a case where the subpoena requires the witness to attend and testify before a court in which the action or proceeding is pending and to any additional costs incurred as provided by subdivision (b).

SEC. 4. Section 1582 of the Financial Code is amended to read:

1582. A trust company, its officers and employees, shall not disclose any information to any person concerning the existence, condition, management, and administration of any private trust confided to it, except:

(a) Where such disclosure is specifically authorized by the terms

of the trust.

(b) Where such disclosure is determined by an officer of the trust company to be necessary in the administration of such trust.

(c) Where such disclosure is required by a court of competent jurisdiction or by a subpoena issued by an attorney pursuant to Section 1985 of the Code of Civil Procedure.

(d) Where such disclosure is made to, or upon the instructions of, any party executing the trust instrument.

(e) Where such disclosure refers to an irrevocable trust, to, or upon the instructions of, any beneficiary thereunder whether or not presently entitled to receive benefits therefrom.

(f) Where such disclosure is made to the superintendent in the course of his examination.

CHAPTER 453

An act to amend Section 26827.1 of the Government Code, relating to fees for orders or decrees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 26827.1 of the Government Code is amended to read:

26827.1. In any county in which the population is 4,000,000 or more, as determined by the 1970 Federal Decennial Census, whenever the court directs that an order or decree in a probate proceeding be prepared by the clerk, the fee for preparing such order or decree shall be the amount necessary to defray the costs of preparation, as determined by the county clerk on an annual basis, but shall not exceed fifty dollars ($50). The fee so paid shall be an expense of administration.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to cover the increased costs of preparing orders or decrees, it is necessary that this act take effect immediately.

CHAPTER 454

An act to amend Sections 2966, 3527, 5122, 5536.2, 6510, 10239.10, 10241, 10247.5, 11000.5, 12500, 13450, and 21606 of, and to repeal the heading of Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of, the Business and Professions Code, to amend the heading of Chapter 1 (commencing with Section 1730) of Title 11.5 of Part 3 of the Code of Civil Procedure, to amend Section 9311 of the Commercial Code, to amend Section 8723 of the Corporations Code, to amend Sections 6550, 6661, and 15200 of the Elections Code, to amend Section 451 of the Evidence Code, to amend Section 18027 of the Financial Code, to amend Sections 14, 223, 224, 6037, 6038, 11503, 11531, 12021, and 12112 of, to amend the heading of Article 2 (commencing with Section 221) of Chapter 1 of Division 1 of, and to add Section 51 to, the Food and Agricultural Code, to amend Sections 460, 990.8, 3122, 3123, 6546.8, 8656, 11126, 11501, 11752, 11996, 12801, 12980, 12990, 14001, 14002.5, 14520, 14534, 14601, 14672.92, 14795, 14796, 14843, 14998.7, 15320, 15323, 15326, 15603, 16210, 16211, 16211.5, 16213, 16276.5, 16280.5, 18590, 18596.5, 18650, 20461.6, 26820.4, 29706, 31625.2, 37201, 37500, 37618, 68517, 68701, 68753, 70045.4, 70045.9, 75060, 75060.6, and 75083 of, to amend the headings of Chapter 9 (commencing with Section 3120) of Division 4 of Title 1 and Part 6 (commencing with Section 22950) of Division 5 of Title 2 of, to amend and renumber Section 74695 of, and to amend and renumber the heading of Chapter 6 (commencing with Section 16180) of, Part 1 of Division 4 of Title 2 of, and to repeal Section 26821.3 of, the Government Code, to amend Sections 38, 669, 6801, 7081, and 7121 of the Harbors and Navigation Code, to amend Sections 216, 309, 1597.64 and 8934.4 of the Health and Safety Code, to amend Sections 673, 923.5, 1280.5, 1764.3, 1764.4, 1813, 1821, 10252, 10495, 10496, 11099, 11101, 11102, 11103, 11107, 11128, 11440, 11443, 11472, 11490, 11521.5, 11522, 11556, 11756, 12110, 12640.025, and 12640.18 of, and to repeal Section 12382.1 of, the Insurance Code, to amend Sections 96, 135, 142.4, 148.7, 226, 1722.1, 3211.92, 3361.5, 3725, 4152, 4404, and 4413 of the Labor Code, to amend Sections 76, 482, 483.5, 489.1, 557, 562, and 566 of the Military and Veterans Code, to amend Section 4799.12 of the Public Resources Code, to add Article 2 (commencing with Section 2881) to Chapter 10 of, and to repeal Article 2 (commencing with Section 2831) of Chapter 8 of, Part 2 of Division 1 of, the Public Utilities Code, to amend Sections 6561, 6903, 7204.4, 12631, 12978, 17073, 17297, 18586.2, 18646, 19061.1, 30142, 30151, 30175, 30180, 30181, 30261, 32002, 32004, 32010, 32101, 32301, 32402, and 38613 of, to amend and renumber Section 17052.8 of, and to repeal Section 26082 of, to repeal Articles 2 (commencing with Section 30115) and 3 (commencing with Section 30131) of Chapter 2 of Part 13 of Division 2 of, the Revenue and Taxation Code, to repeal Section 199.8 of the Streets and Highways Code, to amend Sections 291, 1505, 3050, 4610, 6301, and 8151, of the Vehicle Code, to amend Sections 185, 8371, 25400, 35191, and 36425 of the Water Code, to amend Sections 800 and

14304 of the Welfare and Institutions Code, to amend Section 2 of Chapter 327 of the Statutes of 1979, and to amend Section 2 of Chapter 505 of the Statutes of 1980, relating to maintenance of the codes.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. The heading of Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code is repealed.

SEC. 2. Section 2966 of the Business and Professions Code is amended to read:

2966. Whenever it appears to the committee that a licensed psychologist or registered psychological assistant is mentally ill to the extent that it affects his or her ability to conduct with safety to the public the practice authorized by the license or registration he or she holds, the committee may order the psychologist or psychological assistant to be examined by two or more psychologists or physicians specializing in psychiatry designated by the committee. The report of those persons shall be made available to the psychologist or psychological assistant and may be received as direct evidence in a proceeding conducted pursuant to Section 2967.

SEC. 3. Section 3527 of the Business and Professions Code is amended to read:

3527. (a) The committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant certificate after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(b) The committee may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension and revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician's assistant after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

SEC. 4. Section 5122 of the Business and Professions Code is

amended to read:

5122. Whenever in the judgment of the board, or with its approval any administrative committee, any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by the court without bond.

SEC. 5. Section 5536.2 of the Business and Professions Code is amended to read:

5536.2. (a) All persons preparing plans, specifications, and instruments of service for others shall sign those plans, specifications, and other instruments of service and all contracts therefor, and if certificated or registered under this chapter shall note their certificate or registration number. Failure of any person to comply with this subdivision is a misdemeanor punishable as provided in Sections 5536 and 5536.1. This section shall not apply to employees of persons certificated or registered under this chapter while acting within the course of their employment.

(b) The preparation of plans, specifications, or instruments of service for any building, except the buildings described in Section 5537, by any person who does not have a certificate to practice architecture or is not registered as a building designer, is a misdemeanor punishable as provided in Sections 5536 and 5536.1.

SEC. 6. Section 6510 of the Business and Professions Code is amended to read:

6510. The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of certificates of registration. This record shall also contain the name and mailing address of each registered barber and registered apprentice and the date and number of his or her certificate of registration.

SEC. 7. Section 10239.10 of the Business and Professions Code is amended to read:

10239.10. Upon the issuance of an order either under Section 10239.1 or 10239.6, or at any time thereafter, the court shall issue such other injunctions or orders as may be deemed necessary to prevent any or all of the following occurrences:

(a) Interference with the commissioner or the proceeding.

(b) Waste of assets of those persons.

(c) The institution or prosecution of any actions or proceedings.

(d) The obtaining of preferences, judgments, attachments, or other liens against that person or its assets.

(e) The making of any levy against any such person or its assets.

(f) The sale or deed for nonpayment of taxes or assessments levied by any taxing agency of property:

(1) Owned by that person.

(2) Upon which that person holds an encumbrance.

(3) Upon which that person has prior thereto commenced an action to foreclose any deed of trust or mortgage or has exercised the power of sale under any trust deed or mortgage, which sale or foreclosure proceedings have not yet been completed or upon which no trustee's deed or judgment of court or sheriff's certificate of sale has been issued. "Taxing agency," as used in this section, has the meaning ascribed to it by Section 121 of the Revenue and Taxation Code. The injunctions or orders authorized by this subdivision may be modified, dissolved, or rescinded by the court on motion of the commissioner, the Controller, the person charged with the collection of taxes or assessments on the property, or any person beneficially interested in the property. The recording in the office of the county recorder of this injunction or order shall constitute service of the order or injunction upon any taxing agency with respect to property or interests therein located in the county.

SEC. 8. Section 10241 of the Business and Professions Code is amended to read:

10241. The statement required by Section 10240, the form of which shall be approved by the commissioner, shall set forth separately the following items:

(a) The estimated maximum costs and expenses of making the loan, which are to be paid by the borrower, including but not limited to:

(1) Appraisal fees.

(2) Escrow fees.

(3) Title charges.

(4) Notary fees.

(5) Recording fees.

(6) Credit investigation fees.

If a real estate licensee performs or is to perform any of the services provided for in this subdivision, the licensee shall be entitled to the costs and expenses thereof in addition to the charges provided for in subdivision (b).

(b) The total of the bonuses, brokerage or commissions contracted for or to be received by any person for negotiating, procuring, or arranging or making such a loan.

(c) Any liens against the real property, as disclosed by the borrower, and the approximate amount thereof.

(d) The estimated amounts to be paid on the order of the borrower, as disclosed by the borrower, including but not limited to:

(1) Fire insurance premiums.

(2) Amounts due on prior liens, including interest or other charges arising in connection with the payment, release, reconveyance, extinction or other removal of record of the prior liens.

(3) Amounts due other creditors.

(4) Assumption, transfer, forwarding and beneficiary statement fees.

(e) The estimated balance of the loan funds to be paid to the borrower after deducting the total of subdivisions (a), (b) and (d).

(f) The principal amount of the loan.

(g) The rate of interest.

(h) The term of the loan, the number of installments, the amount of each installment, and the approximate balance due at maturity.

(i) A statement containing the name of the real estate licensee negotiating the loan, his or her license number, and the address of his or her licensed place of business.

(j) A statement that the real estate licensee is not the lender, either directly or indirectly.

(k) The terms of prepayment privileges, and penalties, if any.

(*l*) A statement that the purchase of credit life or credit disability insurance is not required as a condition for the making of the loan.

(m) If the loan is one that is within the limits specified in Section 10245, a certification by the real estate licensee negotiating the loan that the loan is being made in compliance with the provisions of this article.

SEC. 9. Section 10247.5 of the Business and Professions Code is amended to read:

10247.5. In addition to any other remedies that may exist for violations of this article, any licensee who negotiates a loan wherein the licensee represents that he or she is not the lender, collects a fee therefor and is in fact the lender, and if by reason thereof the loan is usurious, he or she shall be liable for damages in the full amount of the commission and expenses charged to the borrower. The Attorney General upon application of the borrower may initiate actions to collect these unlawful charges and all funds collected shall be deposited in the separate account in the Real Estate Fund for the purposes of real estate education, research and recovery. Prior to the commencement of any action by the Attorney General, the borrower shall have the absolute right to withdraw the application.

SEC. 10. Section 11000.5 of the Business and Professions Code is amended to read:

11000.5. A "land project" is a subdivision or subdivided lands within this state which satisfies all of the following conditions:

(a) The subdivision or subdivided lands contain 50 or more parcels of which any 50 are both:

(1) Not improved with residential, industrial, commercial, or institutional buildings.

(2) Offered for sale, lease, or financing for purposes other than industrial, commercial, institutional, or commercial agricultural uses.

(b) The subdivision or subdivided lands are located in an area in which reside less than 1,500 registered voters within the subdivision or within two miles of the boundaries of the property described in the final public report.

(c) Not constituting a community apartment project as defined in Section 11004, a project consisting of condominiums as defined in Section 783 of the Civil Code, or a stock cooperative as defined in

Section 11003.2.

For purposes of subdivision (a), lands owned or beneficially controlled by substantially the same entities or interests shall be deemed to be part of the same subdivided lands or subdivision.

SEC. 11. Section 12500 of the Business and Professions Code is amended to read:

12500. As used in this chapter:

(a) "Weighing instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) "Measuring instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) "Correct" means any weight or measure or weighing, measuring or counting instrument which meets all tolerance and specification requirements established by the director pursuant to Section 12107.

(d) "Incorrect" means any instrument which fails to meet all of the requirements of Section 12107.

(e) "Commercial purposes" include the determination of the weight, measure, or count of any commodity or thing which is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination a charge for service is based. Devices used in a determination upon which a charge for service is based include, but are not limited to, taximeters, odometers, timing devices, parcel post scales, shipping scales, and scales used in the payment of agricultural workers. "Commercial purposes" do not include the determination of the weight, measure, or count of any commodity or thing which is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing.

SEC. 12. Section 13450 of the Business and Professions Code is amended to read:

13450. The Director of Food and Agriculture shall adopt regulations establishing specifications for the following petroleum products: (a) diesel fuel, (b) kerosene, (c) fuel oil. The specifications may be based on specifications adopted by the American Society for Testing and Materials.

It shall be unlawful for any person to sell, offer for sale, or hold for sale any petroleum products for which specifications have been prescribed by the director which fail to conform thereto.

SEC. 13. Section 21606 of the Business and Professions Code is amended to read:

21606. Every junk dealer shall set out in the written record required by this article all of the following:

(a) The place and date of each sale or purchase made in the

conduct of his or her business of junk dealer.

(b) The name, address and occupation of each person from whom junk is purchased or obtained, and the license number of any motor vehicle used in transporting the junk to the junk dealer's place of business.

(c) The name, address and occupation of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's place of business.

SEC. 14. The heading of Chapter 1 (commencing with Section 1730) of Title 11.5 of Part 3 of the Code of Civil Procedure is amended to read:

CHAPTER 1. FAMILY CONCILIATION COURT LAW

SEC. 15. Section 9311 of the Commercial Code is amended to read:

9311. The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer but a provision in the security agreement making the transfer constitute a default is valid.

SEC. 16. Section 8723 of the Corporations Code is amended to read:

8723. (a) In all cases where a corporation has been dissolved, any person to whom assets were distributed upon dissolution may be sued in the corporate name upon any cause of action against the corporation arising prior to its dissolution. This section is procedural in nature and is not intended to determine liability.

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state with an additional copy of the summons or other process and order being delivered to the Attorney General in the case of a corporation which at the commencement of the dissolution proceedings held assets in charitable trust. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State or in the case of a corporation which at the commencement of the dissolution proceedings held assets in charitable trust upon the 10th day after the later of delivery of process to the Secretary of State or Attorney General.

(c) Every such corporation shall survive and continue to exist

indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its members or other persons having any equity or other interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702.

SEC. 17. Section 6550 of the Elections Code is amended to read:

6550. All nomination documents shall be filed as follows:

(a) For state offices, United States Senators, Representatives in Congress, Members of the State Senate and Assembly, judges of the superior court, and members of the Board of Equalization, in the office of the Secretary of State.

(b) For all officers to be voted for wholly within one county, except as provided in subdivision (a), in the office of the county clerk of that county.

SEC. 18. Section 6661 of the Elections Code is amended to read:

6661. No person whose name has been written in upon a ballot for an office at the direct primary may have his or her name placed upon the ballot as a candidate for that office for the ensuing general election unless one of the following statements is true:

(a) At that direct primary he or she received for that office votes equal in number to 1 percent of all votes cast for the office at the last preceding general election at which the office was filled.

(b) He or she is an independent nominee pursuant to Chapter 6 (commencing with Section 6800).

(c) He or she has been designated by a party central committee to fill a vacancy on the ballot for the general election.

SEC. 19. Section 15200 of the Elections Code is amended to read:

15200. This chapter shall govern all elections except those totally using paper ballots counted by hand. Voting machines are governed by this chapter only where the provisions of this chapter are not inconsistent with Chapter 4 (commencing with Section 15300).

SEC. 20. Section 451 of the Evidence Code is amended to read:

451. Judicial notice shall be taken of:

(a) The decisional, constitutional, and public statutory law of this state and of the United States and the provisions of any charter described in Section 3, 4, or 5 of Article XI of the California Constitution.

(b) Any matter made a subject of judicial notice by Section 11343.7, 11343.8, or 18576 of the Government Code or by Section 1507 of Title 44 of the United States Code.

(c) Rules of professional conduct for members of the bar adopted

pursuant to Section 6076 of the Business and Professions Code and rules of practice and procedure for the courts of this state adopted by the Judicial Council.

(d) Rules of pleading, practice, and procedure prescribed by the United States Supreme Court, such as the Rules of the United States Supreme Court, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Admiralty Rules, the Rules of the Court of Claims, the Rules of the Customs Court, and the General Orders and Forms in Bankruptcy.

(e) The true signification of all English words and phrases and of all legal expressions.

(f) Facts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute.

SEC. 21. Section 18027 of the Financial Code is amended to read:

18027. Corporations subject to this division are not subject to the provisions or regulations of the Personal Property Brokers Law, Division 9 (commencing with Section 22000), or the Consumer Finance Lenders Law, Division 10 (commencing with Section 24000).

SEC. 22. Section 14 of the Food and Agricultural Code is amended to read:

14. Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to the extent that that chapter is not specifically in conflict with the express terms of the provisions of this code which authorize the adoption of such regulations. Those rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted and approved pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

The authority to adopt any rule, regulation, or rule and regulation which is vested in any state department, officer, board, agency, committee, or commission pursuant to this code includes the authority to amend or repeal the rule, regulation, or rule and regulation.

SEC. 23. Section 51 is added to the Food and Agricultural Code, to read:

51. (a) If, in connection with the use of roads, highways, and freeways, the assistance, control, or protection by Highway Patrol officers is desired, applications by an entity engaged in agricultural production to utilize services of Highway Patrol officers in the transportation of agricultural commodities shall be made to the Commissioner of the California Highway Patrol. The commissioner may approve the application provided that employees are available and the department is fully reimbursed for additional costs incurred.

(b) Applications to utilize Highway Patrol employee services shall be approved or disapproved by the Commissioner of the California Highway Patrol within 30 days of receipt of the application and shall be approved sooner, if possible.

SEC. 24. The heading of Article 2 (commencing with Section 221) of Chapter 1 of Division 1 of the Food and Agricultural Code is amended to read:

Article 2. Department of Food and Agriculture Fund

SEC. 25. Section 223 of the Food and Agricultural Code is amended to read:

223. A sum not to exceed twenty-five thousand dollars ($25,000) may, upon approval of the Department of Finance, be withdrawn from the Department of Food and Agriculture Fund to be used as a revolving fund by the department for the purposes for which the Department of Food and Agriculture Fund may be used.

SEC. 26. Section 224 of the Food and Agricultural Code is amended to read:

224. Money transferred by the Controller to the Department of Food and Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended by the Director of Food and Agriculture as follows:

(a) Five hundred thousand dollars ($500,000) of the amount transferred each fiscal year is hereby appropriated for reimbursement for charges for state administrative costs, and for departmental and divisional overhead expense apportioned to the Department of Food and Agriculture Fund.

(b) One million dollars ($1,000,000) each fiscal year is hereby appropriated to be used only for emergency detection, eradication, or research of agricultural plant or animal pests or diseases, during the fiscal year. The Director of Food and Agriculture may expend the funds with the approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of those funds shall be added to the amount available for payment to counties during the next fiscal year, as provided in subdivision (c).

(c) The total amount transferred during each fiscal year less the amounts provided in subdivisions (a) and (b), is hereby appropriated to be paid to the counties as partial reimbursement for county expenses for carrying out agricultural programs authorized

by this code that are supervised by the department. The payment shall be apportioned to the counties by the director in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for such agricultural programs, as determined by the director. The amount to be transferred to any county for a fiscal year may be increased or decreased by the director to provide that, insofar as those transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than that county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5, as determined by the director, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or decreased by the director to compensate for incorrect previous transfers to that county.

SEC. 27. Section 6037 of the Food and Agricultural Code is amended to read:

6037. Any money which is received by the director pursuant to this article shall be deposited in the Department of Food and Agriculture Fund to be used for the administration and enforcement of this article.

SEC. 28. Section 6038 of the Food and Agricultural Code is amended to read:

6038. The director may receive moneys from other sources for this program, which shall be deposited into the Department of Food and Agriculture Fund and used to carry out the purposes of this article.

SEC. 29. Section 11503 of the Food and Agricultural Code is amended to read:

11503. The commissioner of any county may adopt regulations applicable in his or her county which are supplemental to those of the director which govern the conduct of pest control operations and records and reports of those operations. The regulations may include provisions pertaining to any matter related to the accomplishment of the purposes of Section 11737. The provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, shall be followed insofar as practicable in the adoption of such regulations by the commissioner. The regulations shall be filed with the director who shall compile them.

Each regulation of the commissioner shall be approved by the director before it may become operative.

SEC 30. Section 11531 of the Food and Agricultural Code is amended to read:

11531. Except as provided in Chapter 6 (commencing with Section 12001), this division does not apply to any person while engaged in any of the following:

(a) Any activity that is defined as structural pest control and

required to be licensed under Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code.

(b) Preservative treatment of fabrics or structural materials.

(c) Household or industrial sanitation services.

(d) Seed treatment which is incidental to such person's regular business.

SEC. 31. Section 12021 of the Food and Agricultural Code is amended to read:

12021. Application for a pest control adviser license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant and shall be accompanied by a fee of twenty-five dollars ($25) to be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund. All licenses issued under the provisions of this article shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in the form prescribed by the director and upon payment of the same fee paid for an initial application. A penalty of ten dollars ($10) shall be assessed against any applicant who applies for a renewal of such license after the expiration date.

SEC. 32. Section 12112 of the Food and Agricultural Code is amended to read:

12112. Notwithstanding Section 11513, 50 percent of the moneys derived under this chapter shall be available to the director to cover the costs of establishing and administering the pesticide dealer's licensing program pursuant to this chapter. The director shall pay 50 percent of the moneys collected to the counties which employ agricultural commissioners and the moneys shall be used by the counties for the enforcement and administration of this chapter. The department shall determine and pay to each county one-half of the deposited application fees and renewal fees that are received from applicants whose principal address at the time of payment, as determined by the director, was located in the county, and the amount of the payments to counties is hereby appropriated from the Department of Food and Agriculture Fund.

SEC. 33. Section 460 of the Government Code is amended to read:

460. The state is divided into counties. The names, boundaries, and territorial subdivisions thereof are declared in Title 3 (commencing with Section 23000).

SEC. 34. Section 990.8 of the Government Code is amended to read:

990.8. Two or more local public entities, by a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, may provide insurance authorized by this part or for any other purpose by any one or more of the methods specified in Section 990.4.

Two or more local public entities having the same governing board may be coinsured under a master policy and the total premium may

be prorated among those entities.

The pooling of self-insured claims or losses among entities as authorized in subdivision (a) of Section 990.4 shall not be considered insurance nor be subject to regulation under the Insurance Code.

SEC. 35. The heading of Chapter 9 (commencing with Section 3120) of Division 4 of Title 1 of the Government Code is amended to read:

CHAPTER 9. TRAVEL INSURANCE OF OFFICERS AND EMPLOYEES

SEC. 36. Section 3122 of the Government Code is amended to read:

3122. The travel insurance authorized by this chapter shall be in addition to any compensation secured under Division 4 (commencing with Section 3201) of the Labor Code and inuring to the benefit of the officer, deputy, assistant, employee or agent, or his or her beneficiary or heir.

SEC. 37. Section 3123 of the Government Code is amended to read:

3123. The office of county superintendent of schools may carry a master policy for travel insurance on behalf of the school districts of the county.

SEC. 38. Section 6546.8 of the Government Code is amended to read:

6546.8. (a) The California Fair and Exposition Revenue Bond Advisory Commission, consisting of seven members, is hereby created. The seven members shall be selected as follows:

(1) The Treasurer, or his or her designate.

(2) The Director of Finance, or his or her designate.

(3) Two fiscal officers, representing county, district agricultural association, or citrus fruit fairs appointed by the Director of Food and Agriculture.

(4) Two fiscal officers, representing county, district agricultural association, or citrus fairs appointed by the Treasurer.

(5) One public member appointed by the Treasurer.

(b) The term of office of an appointed member shall be four years, but appointed members shall serve at the pleasure of the appointing power. In case of any vacancy, the appointing power shall make an appointment, to become effective immediately, for the unexpired term.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission, not to exceed three hundred dollars ($300) in any month, and to reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

(e) The commission shall do all of the following:

(1) Assist the county, district, or citrus fruit fairs in the planning, preparation, marketing, and sale of fair and exposition revenue bonds to reduce cost, protect the issuer's credit, and determine public benefits and detriments.

(2) Collect, maintain, and provide financial, economic, governmental, and social data on county, district, or citrus fruit fairs pertinent to their ability to administer revenue bonds.

(3) Prepare guidelines or assist in preparation of informational documents necessary for such offerings.

(4) Collect, maintain, and provide information on debt authorization, sold and outstanding, and serve as a clearinghouse for local issues of county, district, or citrus fruit fair revenue bonds.

(5) Maintain contact with municipal bond underwriters, credit rating agencies, investors, and others to improve the market for county, district, or citrus fruit fair revenue bond issues.

(6) Undertake or commission studies on methods to reduce the costs of bond issues pursuant to this chapter.

(7) Recommend changes in state law and local practices to improve the sale and servicing of such revenue bonds.

(8) Perform any other function required or authorized by law.

(9) Adopt rules and regulations to carry out its duties under this chapter.

(f) The commission may require notice, prior to the submission required by Section 6546.9, of proposed new revenue bonds issued pursuant to this chapter in such form and at such times as the commission specifies. However, failure to submit prior notice of a proposed new issue, if required by the commission, shall not affect the validity of the bond issue.

(g) In providing services to county, district, or citrus fruit fairs under subdivision (e), the commission shall charge fees commensurate with its direct expenses and those of the Treasurer incurred in providing that service. Amounts received under this section shall be deposited in the General Fund and be available, when appropriated, for expenses of the commission and the Treasurer.

(h) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all members of the commission constitutes a quorum for the transaction of business.

(i) All administrative and clerical assistance required by the commission shall be furnished by the office of the Treasurer.

SEC. 39. Section 8656 of the Government Code is amended to read:

8656. All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any political subdivision when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply

to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under this chapter.

SEC. 40. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing contained in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any such public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University and Colleges who receive compensation for their services other than per diem and ordinary and necessary expenses shall, when engaged in such capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided that the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required

to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 or similar provision of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125 .

(i) Nothing in this article shall be construed to prevent the Trustees of the California State University and Colleges from holding closed sessions dealing with site selection for such state university and colleges.

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may

be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by such state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body from holding a closed session to confer with legal counsel regarding pending litigation when discussion in open session concerning those matters would adversely affect or be detrimental to the public interest.

(r) Nothing in this article shall be construed to prevent a state body which invests in retirement, pension, or endowment funds from holding closed sessions to confer with legal counsel regarding pending litigation, when discussion in open session concerning these matters would adversely affect, or be detrimental to, those funds. For purposes of subdivision (q) and this subdivision, litigation shall be considered pending when a complaint, claim or petition for writ of mandate has been filed, or the threat of litigation is imminent in the sound opinion of the state body.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry pursuant to Section 763 of the Public Resources Code from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting

a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions when considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

SEC. 41. Section 11501 of the Government Code is amended to read:

11501. (a) This chapter applies to any agency as determined by the statutes relating to that agency.

(b) The enumerated agencies referred to in Section 11500 are:

Accountancy, State Board of
Aging, State Department of
Air Resources Board, State
Alcohol and Drug Abuse, State Department of
Alcoholic Beverage Control, Department of
Architectural Examiners, California State Board of
Attorney General
Automotive Repair, Bureau of
Barber Examiners, State Board of
Behavioral Science Examiners, Board of
Cancer Advisory Council
Cemetery Board
Chiropractic Examiners, Board of
Collection and Investigative Services, Bureau of
Community Colleges, Board of Governors of the California
Conservation, Department of
Consumer Affairs, Director of
Contractors, Registrar of
Corporations, Commissioner of
Cosmetology, State Board of
Dental Examiners of California, Board of
Developmental Services, State Department of
Education, State Board of
Electronic and Appliance Repair, Bureau of
Employment Agencies, Bureau of

Engineers, State Board of Registration for Professional
Fabric Care, State Board of
Fair Employment and Housing Commission
Fair Political Practices Commission
Fire Marshal, State
Fire Services, State Board of
Fish and Game Commission
Food and Agriculture, Director of
Forestry, Department of
Funeral Directors and Embalmers, State Board of
Geologists and Geophysicists, State Board of Registration for
Guide Dogs for the Blind, State Board of
Health Services, State Department of
Home Furnishings, Bureau of
Horse Racing Board, California
Insurance Commissioner
Labor Commissioner
Landscape Architects, State Board of
Medical Quality Assurance, Board of, Medical Quality Review Committees and Examining Committees
Mental Health, State Department of
Motor Vehicles, Department of
Navigation and Ocean Development, Department of
Nursing, Board of Registered
Nursing Home Administrators, Board of Examiners of
Optometry, State Board of
Osteopathic Examiners of the State of California, Board of
Pharmacy, California State Board of
Public Employees' Retirement System, Board of Administration of the
Real Estate, Department of
Resources Agency, Secretary of the
San Francisco, San Pablo and Suisun, Board of Pilot Commissioners for the Bays of
Savings and Loan Commissioner
School Districts
Shorthand Reporters Board, Certified
Social Services, State Department of
Statewide Health Planning and Development, Office of
Structural Pest Control Board
Tax Preparer Program, Administrator
Teacher Preparation and Licensing, Commission for
Teachers' Retirement System, State
Transportation, Department of, acting pursuant to the State Aeronautics Act
Veterinary Medicine, Board of Examiners in
Vocational Nurse and Psychiatric Technician Examiners of the State of California, Board of
Water Resources, Department of

SEC. 42. Section 11752 of the Government Code is amended to read:

11752. There is in the Business, Transportation and Housing Agency the Stephen P. Teale Data Center. The Stephen P. Teale Data Center shall be under the supervision of a data center director who shall be appointed by the Secretary of the Business, Transportation and Housing Agency, pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

SEC. 43. Section 11996 of the Government Code is amended to read:

11996. There is in state government a California Information Systems Implementation Committee, hereafter referred to as the committee. It shall consist of the Secretary of the Business, Transportation and Housing Agency, the Secretary of the Health and Welfare Agency, the Chairman and Vice Chairman of the Assembly Committee on Ways and Means, the Chairman and Vice Chairman of the Senate Committee on Finance, the Director of Finance, the Director of General Services, the Chairman and Vice Chairman of the Joint Legislative Budget Committee, and the Chairman and Vice Chairman of the Joint Legislative Audit Committee. The chairman shall be elected by the committee at its first meeting.

The committee shall exist for the specific purpose of formulating recommendations regarding appropriate legislative and executive actions required for implementing the state's electronic data processing policies as set forth in Article 1 (commencing with Section 11700) of Chapter 7.

SEC. 44. Section 12801 of the Government Code is amended to read:

12801. Each agency is under the supervision of an executive officer known as the secretary. Each secretary shall be appointed by, and hold office at the pleasure of, the Governor. The appointment of each secretary is subject to confirmation by the Senate. The annual salary of each secretary is provided for by Chapter 6 (commencing with Section 11550) of Part 1.

SEC. 45. Section 12980 of the Government Code is amended to read:

12980. The provisions of this article govern the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955 may file with the department a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue

effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless such judgment is a dismissal entered at the complainant's request.

(b) The Attorney General, the commission, or the director may, in a like manner, make, sign, and file such complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

(c) The department may thereupon proceed upon such complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice.

(d) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 150-day period, whichever date first occurs. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within one year from the date such notice is mailed. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to such alleged violation are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

SEC. 46. Section 12990 of the Government Code is amended to read:

12990. (a) Any employer who is, or wishes to become, a contractor with the state for public works or for goods or services is subject to the provisions of this part relating to discrimination in employment and to the nondiscrimination requirements of this section and any rules and regulations which implement it.

(b) Prior to becoming a contractor or subcontractor with the state, an employer may be required to submit a nondiscrimination program to the department for approval and certification and may be required to submit periodic reports of its compliance with such a program.

(c) Every state contract and subcontract for public works or for goods or services shall contain a nondiscrimination clause prohibiting discrimination on the bases enumerated in this part by contractors or subcontractors. The nondiscrimination clause shall contain a provision requiring contractors and subcontractors to give written notice of their obligations under that clause to labor organizations with which they have a collective bargaining or other agreement. Such contractual provisions shall be fully and effectively enforced.

(d) The department shall periodically develop rules and regulations for the application and implementation of this section, and submit them to the commission for consideration and adoption in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1. Those rules and regulations shall describe and include, but not be limited to, all of the following:

(1) Procedures for the investigation, approval, certification, decertification, monitoring, and enforcement of nondiscrimination programs.

(2) The size of contracts or subcontracts below which any particular provision of this section shall not apply.

(3) The circumstances, if any, under which a contractor or subcontractor is not subject to this section.

(4) Criteria for determining the appropriate plant, region, division, or other unit of a contractor's or subcontractor's operation for which a nondiscrimination program is required.

(5) Procedures for coordinating the nondiscrimination requirements of this section and its implementing rules and regulations with the California Plan for Equal Opportunity in Apprenticeship, with the provisions and implementing regulations of Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1, and with comparable federal laws and regulations concerning nondiscrimination, equal employment opportunity, and affirmative action by those who contract with the United States.

(6) The basic principles and standards to guide the department in administering and implementing this section.

(e) Where a contractor or subcontractor is required to prepare an affirmative action, equal employment, or nondiscrimination program subject to review and approval by a federal compliance agency, that program may be filed with the department, instead of any nondiscrimination program regularly required by this section or its implementing rules and regulations. Such a program shall constitute a prima facie demonstration of compliance with this section. Where the department or a federal compliance agency has required the preparation of an affirmative action, equal employment, or nondiscrimination program subject to review and approval by the department or a federal compliance agency, evidence of such a program shall also constitute prima facie compliance with an ordinance or regulation of any city, city and county, or county which requires an employer to submit such a program to a local awarding agency for its approval prior to

becoming a contractor or subcontractor with that agency.

(f) Where the department determines and certifies that the provisions of this section or its implementing rules and regulations are violated or where the commission, after hearing an accusation pursuant to Section 12967, determines a contractor or subcontractor is engaging in practices made unlawful under this part, the department or the commission may recommend appropriate sanctions to the awarding agency. Any such recommendation shall take into account the severity of the violation or violations and any other penalties, sanctions, or remedies previously imposed.

SEC. 47. Section 14001 of the Government Code is amended to read:

14001. There is in the Business, Transportation and Housing Agency a Department of Transportation.

Any reference in any law or regulation to the Department of Public Works shall be deemed to refer to the Department of Transportation.

SEC. 48. Section 14002.5 of the Government Code is amended to read:

14002.5. As used in this part, unless the context otherwise requires:

(a) "Department" means the Department of Transportation.

(b) "Director" means the Director of Transportation.

(c) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

(d) "Board" or "commission" means the California Transportation Commission.

SEC. 49. Section 14520 of the Government Code is amended to read:

14520. The commission shall advise and assist the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

SEC. 50. Section 14534 of the Government Code is amended to read:

14534. Upon the adoption of the state transportation improvement program, the Secretary of the Business, Transportation and Housing Agency, the commission, and the department shall act in accordance with the program in carrying out their respective powers and duties, except as otherwise provided by law.

The existing adopted state transportation improvement program shall remain in effect until a new state transportation improvement program is adopted by the commission.

SEC. 51. Section 14601 of the Government Code is amended to read:

14601. There is in the state government, in the State and Consumer Services Agency, the Department of General Services.

SEC. 52. Section 14672.92 of the Government Code is amended

to read:

14672.92. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Health Services, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for mentally retarded persons, and for a period not to exceed 50 years, real property not exceeding 18.50 acres located within the grounds of the Camarillo State Hospital at 1732 Lewis Road in the City of Camarillo.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. Such review shall be made by the Director of General Services and the Director of Health Services who shall do all of the following:

(a) Assure the state the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

SEC. 53. Section 14795 of the Government Code is amended to read:

14795. Every person who supplies any state agency with livestock products derived from any of the animals enumerated in Section 19501 of the Food and Agricultural Code shall file with the Department of General Services a sworn statement that the animals were slaughtered by methods defined in that section and in Sections 19502 and 19503 of the Food and Agricultural Code.

SEC. 54. Section 14796 of the Government Code is amended to read:

14796. To assist the Department of General Services and other state agencies in the enforcement of the provisions of Section 19501 of the Food and Agricultural Code, the Department of Agriculture is authorized and directed to provide, through cooperation with the United States Department of Agriculture in the enforcement of Public Law 85-765 and by means of appropriate regulations, suitable methods of identifying the carcasses of animals inspected and passed under Chapter 4 (commencing with Section 18651) of Part 3 of Division 9 of the Food and Agricultural Code that have been slaughtered by methods prescribed by Sections 19501, 19502, and 19503 of that code.

SEC. 55. Section 14843 of the Government Code is amended to read:

14843. The department may make all rules and regulations consistent with the law for the purpose of carrying into effect the provisions of this chapter. Rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1.

SEC. 56. Section 14998.7 of the Government Code is amended to read:

14998.7. The council may establish fees to be paid for use of state-owned property and state employee services for the purpose of making commercial motion pictures. All fees collected pursuant to

this section shall be deposited in the Motion Picture Council Account which is hereby created in the Special Deposit Fund for disbursement by the council to reimburse the operating departments for their actual additional costs and for support of the council.

(a) Applications by the Motion Picture Council for permission to use state property for making motion pictures shall be made to the Director of General Services who shall, promptly upon receipt of such an application, contact the state agency having jurisdiction over the property specified in the application for the concurrence of such agency in the use of such property. The director shall approve or deny those applications within 30 days. The denial of such an application may be made on the basis of any of the following:

(1) State cost in permitting such use would exceed the fee established by the Motion Picture Council.

(2) Such use would unduly interfere with the conduct of state business.

(3) Failure of the permittee to provide full insurance or bond coverage, if required by the Department of General Services, sufficient to reimburse the state for any user-caused damage to the property and to provide adequate personal liability insurance coverage.

In the event that the Director of General Services takes no action on such application within 30 days, the application shall be deemed approved by the Director of General Services. If the Director of General Services determines that he or she is unable to make a decision within the 30 days and so notifies the Motion Picture Council within 25 days of receipt of the application, the director shall then have a total of 45 days from receipt of the application to approve or deny the application. In the event no action is taken by the Director of General Services within that 45-day period, the application shall be deemed approved by the Director of General Services.

Any state agency having management and control over state property, the use of which is sought by such application, shall permit the property to be used for the purpose of making motion pictures upon approval by the Director of General Services and the payment of the fee established by the Motion Picture Council.

(b) If in connection with the use of roads, highways, and freeways, the assistance, control, or protection by Highway Patrol officers is desired, applications by the Motion Picture Council to utilize services of Highway Patrol officers in the production of motion pictures shall be made to the Commissioner of the California Highway Patrol. The commissioner may approve the application provided that employees are available and the department is fully reimbursed for additional costs incurred. Applications to utilize Highway Patrol employee services shall be approved or disapproved by the commissioner within 30 days of receipt of the application and shall be approved sooner if possible.

SEC. 57. Section 15320 of the Government Code is amended to

read:

15320. There is in state government, in the Business, Transportation and Housing Agency, the Department of Economic and Business Development.

SEC. 58. Section 15323 of the Government Code is amended to read:

15323. The director shall do all of the following:

(a) Perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the department.

(b) Keep all books and records necessary for proper and efficient administration of the department.

(c) Serve as the Governor's principal staff adviser on economic development.

(d) Serve as executive director of the state economic development regional commission as designated by the Secretary of the United States Department of Commerce pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended.

(e) Report annually to the Governor, the Legislature, and the Secretary of the Business, Transportation and Housing Agency regarding the efforts and activities of the department.

(f) Advise the Governor, the Legislature, and the Secretary of the Business, Transportation and Housing Agency on the problems, recommendations, and concerns of the business community, including the impact of governmental policies and regulations and the expected impact of proposed policies and regulations which may adversely affect beneficial economic development.

SEC. 59. Section 15326 of the Government Code is amended to read:

15326. Each office shall be in the charge of an assistant director under the direction of the director. The assistant directors shall be appointed, upon recommendation by the director, by the Governor. The assistant directors shall hold office at the pleasure of the director, and shall receive a salary as shall be fixed by the director with the approval of the Department of Finance.

SEC. 60. Section 15603 of the Government Code is amended to read:

15603. The annual salary of each member of the State Board of Equalization representing one of the equalization districts of the state is provided for by Chapter 6 (commencing with Section 11550) of Part 1. The member shall devote his or her entire time to the services of the state in performing the duties imposed upon the board and its members by the Constitution and statutes of this state.

SEC. 61. The heading of Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 5. PAYMENT OF POSTPONED PROPERTY TAXES

SEC. 62. Section 16210 of the Government Code is amended to read:

16210. In the event that the amount secured by the state's lien provided for in Article 1 (commencing with Section 16180) is paid by reason of the sale or condemnation of the property on which the lien attaches, the funds so received shall be placed in an impound account for a period of six months. In connection with the establishment of such an account, the Controller shall release the state's lien in the manner prescribed by Section 16186.

SEC. 63. Section 16211 of the Government Code is amended to read:

16211. The claimant under Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose residential dwelling was sold or condemned may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a new lien against the new residential dwelling from the time the Controller records the new lien against the new residential dwelling as provided for under Section 16182.

The Controller shall subordinate the new lien to the lien of the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of that subordination. The lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

SEC. 64. Section 16211.5 of the Government Code is amended to read:

16211.5. (a) In the event that the real property securing the state's lien provided for in Article 1 (commencing with Section 16180) is subject to a prior recorded homestead pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code, the funds derived from a voluntary sale of the homesteaded real property shall be placed in an impound account for a period of six months notwithstanding Section 1265a of the Civil Code. In connection with the establishment of that account, the Controller shall release the state's lien in the manner prescribed by Section 16186.

(b) The claimant under Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose homesteaded residential dwelling was voluntarily sold may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a new lien against the new residential dwelling from the time the Controller records the new lien against the new residential dwelling as provided

for under Section 16182.

The Controller shall subordinate that new lien to the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of that subordination. The lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

SEC. 65. Section 16213 of the Government Code is amended to read:

16213. At the end of the six-month period specified in Section 16210 or the six-month period specified in Section 16211.5, all funds remaining in an impound account shall be transferred to the General Fund.

SEC. 66. Section 16276.5 of the Government Code is amended to read:

16276.5. The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurer's property tax trust fund.

SEC. 67. Section 16280.5 of the Government Code is amended to read:

16280.5. No state funds from the state surplus or state loan funds shall be available to any local public agency which provides an increase in salary in the 1978–79 fiscal year to any elected or appointed noncivil service officer of the local public agency.

Any provision of a contract or agreement between a local public agency and an elected or appointed noncivil service officer of the local public agency which provides for an increase in salary is null and void.

As used in this section, "salary" does not include any compensation other than wages or salaries, such as health benefits, retirement benefits, life insurance, vacation time, sick leave, perquisites of all kind, and reimbursement of expenses.

SEC. 68. Section 18590 of the Government Code is amended to read:

18590. This part does not prohibit any state agency which is authorized by law to contract for such services from contracting with an independent contractor for the performance of work of a character for which a license is required under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, the performance of which work can not satisfactorily be secured by appointments under this part.

SEC. 69. Section 18596.5 of the Government Code is amended to read:

18596.5. The "state civil service" shall include all vocational education personnel appointed or employed in the State Department of Education, who are now excluded because they are

engaged in work financed in whole or in part with federal funds or in work done by co-operation between the state and the federal government.

SEC. 70. Section 18650 of the Government Code is amended to read:

18650. The annual salary of each member of the board is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3. Each member shall also receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.

SEC. 71. Section 20461.6 of the Government Code is amended to read:

20461.6. Notwithstanding Section 20461.5, a contracting agency may amend its contract or previous amendments to its contract, without election among its employees, to reduce benefits, to terminate provisions which are available only by election of the agency to become subject thereto, to provide different benefits or provisions or to provide any combination of such changes with respect to service performed after the effective date of such contract amendment made pursuant to this section, if such contracting agency has fully discharged all of the obligations imposed by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 with respect to such contract amendments, and if such amendment provides that:

(a) The contract amendments apply uniformly with respect to all members within each of the following classifications: local miscellaneous members, local policemen, local firemen, county peace officers, or all local safety members other than local policemen, local firemen and county peace officers.

(b) A member shall be subject to the contract as amended only if, after the effective date of the contract amendment, the member either (1) receives service credit for the first time within a classification, or (2) the member returns to service within a classification following termination of membership as provided for in subdivision (b) of Section 20390 unless the member has redeposited or elects prior to 90 days after returning to service to redeposit contributions pursuant to Section 20654, in which case the member shall not be subject to the contract amendment.

Amendments to the contract and amendments of previous amendments to the contract may be effected pursuant to this section only once during any three-year period with respect to each of the classifications.

SEC. 72. The heading of Part 6 (commencing with Section 22950) of Division 5 of Title 2 of the Government Code is amended to read:

PART 6. STATE EMPLOYEES' DENTAL CARE ACT

SEC. 73. Section 26820.4 of the Government Code is amended to read:

26820.4. (a) The total fee for filing of the first paper in a civil action or proceeding in the superior court, except an adoption proceeding, shall be the sum fixed by the board of supervisors pursuant to Section 68020, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fee shall not exceed seventy-five dollars ($75).

(2) In any county where a fee is not collected for the court reporter fund, the total filing fee shall not exceed fifty-three dollars ($53).

(b) This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030 or 722 of the Code of Civil Procedure.

SEC. 74. Section 26821.3 of the Government Code is repealed.

SEC. 75. Section 29706 of the Government Code is amended to read:

29706. Failure of a claimant to use a form prescribed by the board pursuant to Section 29705 is not a defense to a suit against the county on a claim for which Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 requires a claim to be presented.

SEC. 76. Section 31625.2 of the Government Code is amended to read:

31625.2. Notwithstanding any other provisions of this chapter, contributions shall not be deducted from the salary of any member having credit for 30 years' service providing the member was a member on March 7, 1973, and remained in membership continuously until credited with 30 years' service.

SEC. 77. Section 37201 of the Government Code is amended to read:

37201. Demands against the city for money or damages are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

SEC. 78. Section 37500 of the Government Code is amended to read:

37500. Except as otherwise provided in this article, the provisions of Article 1 (commencing with Section 43600) of Chapter 4 of Division 4 apply to all proceedings initiated pursuant to this article.

SEC. 79. Section 37618 of the Government Code is amended to read:

37618. Instead of the tax levy, the city legislative body may raise the necessary funds by a bond issue pursuant to Article 1 (commencing with Section 43600) of Chapter 4 of Division 4.

SEC. 80. Section 68517 of the Government Code is amended to read:

68517. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Santa Barbara County. The records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of the county and to the Legislature summarizing the information contained in the records.

(c) Each annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for the transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of the transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 81. Section 68701 of the Government Code is amended to read:

68701. As used in this chapter, "commission" means the Commission on Judicial Performance provided for in Section 8 of Article VI of the Constitution, "masters" means special masters appointed by the Supreme Court pursuant to rules adopted by the Judicial Council, and "judge" means a judge who is the subject of an investigation or proceeding under Section 18 of Article VI of the Constitution.

SEC. 82. Section 68753 of the Government Code is amended to read:

68753. In any pending investigation or formal proceeding, the commission or the masters may order the deposition of a person residing within or without the state to be taken in such form and subject to such limitations as may be prescribed in the order. If the judge and counsel for the commission do not stipulate as to the manner of taking the deposition, either the judge or counsel may file in the superior court a petition entitled "In the Matter of Proceeding of Commission on Judicial Performance No. _____ (state number)," and stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and, directions, if any, of the commission or masters, asking that an order be made requiring that person to appear and testify before a designated officer. Upon the filing of the petition, the court may make an order requiring that person to appear and testify. A subpoena for the deposition shall be issued by the clerk and the deposition shall be taken and returned, in the manner prescribed by law for depositions in civil actions. If the deposition is that of a person residing or present within this state, the petition shall be filed in the superior court of the county in which the

person resides or is present; otherwise in the superior court of any county in which the commission maintains an office.

SEC. 83. Section 70045.4 of the Government Code is amended to read:

70045.4. Notwithstanding the provisions of Section 70045 or any other provision of this article, in Merced County:

(a) The regular full-time official court reporters shall perform the following duties:

(1) Report all criminal proceedings in the superior court.

(2) Report all civil commitment proceedings and all contempt proceedings in the superior court.

(3) Report all juvenile proceedings in the superior court other than those heard by a juvenile court referee or traffic hearing officer.

(4) Report all family law proceedings in the superior court.

(5) Report all civil jury trials in the superior court.

(6) Report all hearings on petitions for extraordinary relief, including but not limited to proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram nobis in the superior court.

(7) Report any other court proceedings in the superior court when a party requests a court reporter in accordance with the rules of court.

(8) Report all criminal proceedings of the grand jury.

(9) Report proceedings for the board of equalization, when requested by the board.

(b) Each regular full-time court reporter shall be paid an annual salary of sixteen thousand seven hundred thirty-five dollars and ninety-four cents ($16,735.94), unless the board of supervisors of the county provides for compensation in excess of that amount.

The foregoing salary is for compensation for reporting services under subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).

The regular full-time official court reporters shall be entitled to the same privileges with respect to group insurance and retirement as other employees of that county. Retirement contributions shall be based upon the annual salary provided for in subdivision (b).

The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Those changes in compensation made pursuant to this provision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the Legislature unless ratified at that session.

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts and county may require, in order that the business of the

courts and county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941). That per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.

(d) In such a county, the fee required by Section 70053 shall be twelve dollars ($12).

SEC. 84. Section 70045.9 of the Government Code is amended to read:

70045.9. Notwithstanding any other provision of law, the provisions of this section shall apply to the official court reporters in Shasta County:

(a) The regular full-time official court reporters shall perform the following duties:

(1) Report all criminal proceedings in superior court.

(2) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.

(3) Report all civil jury trials in superior court, unless the court determines it is not required.

(4) Report any other proceeding in the superior court at the request of the judge of the superior court.

(5) Report any superior court proceeding when a party requests a court reporter in accordance with the rules of court.

(6) Report all criminal investigations of the grand jury, when requested by the foreman, or by the district attorney.

(7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Shasta County, or before both.

(8) Report coroner's inquests, when requested by the coroner.

(9) Report hearings of the Board of Equalization of the County of Shasta, as requested by that board.

(10) Other reporting or related services, as directed by the judges of the superior court.

(11) When not occupied with the above duties, and upon request of the board of supervisors and approval of the presiding judge of the superior court, he or she shall report matters before the board of supervisors.

(b) Each regular full-time court reporter shall be paid a monthly salary of one thousand four hundred seventy dollars ($1,470), unless the Board of Supervisors of Shasta County by ordinance provides for compensation in excess of that amount, in which event the amount set by ordinance shall apply. The salary is for compensation for reporting services set forth under subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).

The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation (upon approval

of judge to whom assigned), sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other comparable employees of the County of Shasta.

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court may be carried on without delay. In the event the board of supervisors has entered into a contract for supplemental reporter services with a qualified person or persons first approved by the presiding judge of the superior court, the person or persons shall be appointed as reporter pro tempore. However, if the person or persons are not reasonably available, the judge may appoint any qualified person. Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment shall be deemed to run to the completion of the proceeding.

Reporters pro tempore shall be paid in accordance with the contract with the board of supervisors or, in absence thereof, with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941). Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.

(d) During the hours during which the court is open as prescribed by the Shasta County Superior Court for the transaction of judicial business, official court reporters shall devote full time to the performance of the duties required of them by law and shall not engage or solicit to engage in any other employment in their professional capacity.

SEC. 85. Section 74695 of the Government Code, as added by Section 26.5 of Chapter 1365 of the Statutes of 1980, is amended and renumbered to read:

74696. A reporter's filing fee of five dollars ($5) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 86. Section 75060 of the Government Code is amended to read:

75060. (a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing such approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing

his or her consent and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of his or her office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

SEC. 87. Section 75060.6 of the Government Code is amended to read:

75060.6. Except as provided in Section 75060.5, every judge who retires pursuant to Section 75060 shall during the remainder of his or her life, receive an allowance equal to one-half of the salary payable, at the time the allowance falls due, to the judge holding the judicial office to which he or she was last elected by the people. The allowance shall be paid by the state at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

The Commission on Judicial Performance, in its discretion, and from time to time, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The transfers and deductions required by Sections 75102 and 75103 shall be made with respect to the salary paid such a judge while he or she is so assigned. If the judge subsequently retires pursuant to Section 75025, the period of time he or she served while so assigned shall be included in the computation of years of service for the purpose of Section 75025. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

SEC. 88. Section 75083 of the Government Code is amended to read:

75083. Any judge retired pursuant to this chapter who is

appointed by the Supreme Court or any court of appeal, or division thereof, to act as a master or referee in any proceeding pending before any such court or before the Commission on Judicial Performance, shall be paid while so acting, in addition to his or her retirement allowance (taken without reduction on account of any election pursuant to Article 3.5 (commencing with Section 75070)) the difference, if any, between the retirement allowance and the compensation of a judge of the court from which he retired.

When appointed to act as referee in a county other than that in which he or she resides, he or she shall also be allowed his or her necessary expenses for travel, board, and lodging incurred in the discharge of that appointment.

The extra compensation and expenses, if any, shall be chargeable to the state.

SEC. 89. Section 38 of the Harbors and Navigation Code is amended to read:

38. The adoption, repeal, amendment, or modification of any rules and regulations pursuant to this division shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 90. Section 669 of the Harbors and Navigation Code is amended to read:

669. The regulations adopted by the department pursuant to this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 91. Section 6801 of the Harbors and Navigation Code is amended to read:

6801. "Board," as used in this part, means the port commission described in Chapter 2 (commencing with Section 6830).

SEC. 92. Section 7081 of the Harbors and Navigation Code is amended to read:

7081. Nomination papers for the office of director shall be signed by 25 or more registered electors in the district and filed with the secretary not more than 65 nor less than 40 days before the day of election. Otherwise the directors shall be nominated in accordance with the provisions for independent nominations set forth in Chapter 6 (commencing at Section 6800) of Division 6 of the Elections Code so far as they may be applicable.

SEC. 93. Secton 7121 of the Harbors and Navigation Code is amended to read:

7121. No ordinance shall become effective until 30 days from and after the date of its passage, except an ordinance calling or otherwise relating to an election and except an ordinance for the immediate preservation of the public peace, health, or safety, which contains a declaration of, and the facts constituting, its urgency and is passed by a four-fifths vote of the board. Prior to the effective date thereof ordinances shall be subject to referendum in the same manner and with the same effect as ordinances of counties under the provisions

of Article 2 (commencing with Section 3750) of Chapter 2 of Division 5 of the Elections Code and terms used therein shall have the meanings set forth in Section 7120.

SEC. 94. Section 216 of the Health and Safety Code is amended to read:

216. (a) The chief and such inspectors of the Food and Drug Section as he or she may designate, are peace officers for the purpose only of carrying out the duties of their employment. The authority of any such peace officer shall extend to any place in the state as to any public offense committed, or which there is reasonable cause to believe has been committed, within this state which is a violation of any provision of Division 21 (commencing with Section 26000) or Division 22 (commencing with Section 27000) of this code, or Chapter 4 (commencing with Section 41301) of Division 16 of the Food and Agricultural Code. This authority shall further extend to violations of any penal provision of this code, the Business and Professions Code, or the Penal Code, which are discovered in the course of and arise in connection with the employment of such officers.

(b) Any inspector of the Food and Drug Section shall have the authority, as a public officer, to arrest, without a warrant, any person who, in his or her presence, has violated, or as to whom there is probable cause to believe has violated, any provision of Division 21 (commencing with Section 26000) or Division 22 (commencing with Section 27000) of this code, or Chapter 4 (commencing with Section 41301) of Division 16 of the Food and Agricultural Code.

In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking such person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. The provisions of that chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(c) There shall be no civil liability on the part of and no cause of action shall arise against any person, acting pursuant to subdivision (b) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting inspector, at the time of the arrest, had reasonable cause to believe was lawful. No such inspector shall be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(d) The chief and inspectors of the Food and Drug Section may serve all processes and notices throughout the state.

SEC. 95. Section 309 of the Health and Safety Code is amended to read:

309. It is the policy of the State of California to make every effort

to detect, as early as possible, phenylketonuria and other preventable heritable disorders leading to mental retardation or physical defects.

The State Department of Health Services shall establish a genetic disease unit, which shall coordinate all programs of the state department in the area of genetic disease. The unit shall promote a statewide program of testing information and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program. The tests shall be in accordance with accepted medical practices and shall be administered to each child born in California at such time as the state department has established appropriate regulations and testing methods. The state department may provide laboratory testing facilities or contract with any laboratory which it deems qualified to conduct tests required under this section. However, notwithstanding the provisions of Section 309.5, provision of laboratory testing facilities by the state department shall be contingent upon the provision of funding therefor by specific appropriation to the Genetic Disease Testing Fund enacted by the Legislature. If moneys appropriated for purposes of this section are not authorized for expenditure to provide laboratory facilities, the state department may nevertheless contract to provide laboratory testing services pursuant to this section and shall perform laboratory services, including, but not limited to, quality control, confirmatory, and emergency testing, necessary to ensure the objectives of this program.

The state department shall charge a fee for any tests performed pursuant to this section. The amount of the fee shall be established and periodically adjusted by the State Director of Health Services in order to meet the costs of this section.

The state department shall inform all hospitals or physicians, or both, of required regulations and tests and may alter or withdraw any such requirements whenever sound medical practice so indicates.

The provisions of this section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his or her religious beliefs or practices.

The genetic disease unit is authorized to make grants or contracts for demonstration projects to determine the desirability and feasibility of additional tests or new genetic services or to initiate the development of genetic services in areas of need or to purchase or provide such services from such sums as are appropriated for this purpose.

The genetic disease unit's first task shall be to evaluate and prepare recommendations on the implementation of tests for the detection of the following diseases: galactosemia, histidinemia, galactokinase deficiency, homocystinuria, maple syrup urine disease, hypothyroidism, and tyrosinosis. The State Department of Health Services shall implement a program for the detection of phenylketonuria, galactosemia, and hypothyroidism commencing on or before January 1, 1980. The genetic disease unit shall prepare and submit a report outlining the compliance with an implementation

schedule to the Legislature on or before a date two months after September 14, 1979.

SEC. 97. Section 1597.64 of the Health and Safety Code is amended to read:

1597.64. This chapter shall remain in effect only until July 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1984, deletes or extends that date.

SEC. 98. Section 8934.4 of the Health and Safety Code is amended to read:

8934.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. Such a ballot pamphlet is "official matter" within the meaning of Section 10010 of the Elections Code.

SEC. 99. Section 673 of the Insurance Code is amended to read:

673. (a) As used in this section, "exercise the right to cancel" means the act of formally electing to use the right of the insured to cancel any insurance policy in accordance with and subject to the provisions of that policy when the right to use that right of the insured has been transferred or assigned by the insured in writing executed by, or on behalf of, the insured to a lender who has advanced to the insurer the premium for the policy. The transfer or assignment may be by power of attorney or other document. The transfer or assignment may, but need not, be accompanied by an assignment of any unearned premium due the insured on cancellation.

(b) No lender shall exercise the right to cancel a financed insurance policy because of the default of the insured under a premium payment loan agreement except in accordance with this section.

(c) Written notice of the exercise of the right to cancel shall be mailed by the lender to the insurer and to the insured at the address shown on the premium payment loan agreement or his or her last known address, specifying a date five days or more after the date of mailing of such notice as the effective date of cancellation. Any insurer may, in writing delivered to the lender, waive, generally or specifically, the right to receive such notice or notices. A copy of such notice may be mailed to the producer of record if known to the lender, but failure to do so shall not affect any rights granted by this

section. This subdivision shall not apply to an industrial loan company.

(d) An industrial loan company shall, in giving the insured 10 days' notice of its intent to cancel pursuant to Section 18608 of the Financial Code, furnish a copy of such notice to the insurance agent or insurance broker indicated on the premium finance agreement. After expiration of the 10-day period, the industrial loan company may thereafter, in the name of the insured, cancel the insurance contract or contracts by mailing to the insurer a written notice of cancellation, and the insurance contract shall be canceled as if the notice of cancellation had been submitted by the insured person, but without requiring the return of the insurance contract or contracts. The industrial loan company shall also mail a notice of cancellation, setting forth the effective date of cancellation of the finance insurance contract, to the insured at his or her last known address and to the insurance agent or insurance broker indicated on the premium finance agreement. For the purposes of this subdivision, the words "premium finance agreement" shall have the same meaning as that specified in Section 18564 of the Financial Code.

(e) A written exercise of that right containing a confirmation of the effective date of cancellation shall be mailed by the lender to the insurer within five days following that effective date of cancellation specified in the notice described in subdivision (c) unless the insured has cured any and all defaults. Cancellation shall be effective on the financed insurance policy without requiring the return of the insurance policy or insurance policies, except as provided in subdivisions (f) and (g), on the confirmation date specified in the written exercise of that right. This subdivision shall not apply to an industrial loan company.

(f) All statutory, regulatory, and contractual restrictions providing that the financed insurance policy may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under this section. The insurer shall give the prescribed notice on behalf of itself or the insured to any governmental agency, mortgagee, or other third party on or before the fifth business day after the day it receives the written exercise of cancellation right containing confirmation of the cancellation date from the lender, as provided in subdivision (e), or a written notice of cancellation from an industrial loan company, pursuant to subdivision (d), and shall, for the purpose of the notice, determine the effective date of cancellation as to those persons mentioned in this subdivision only, taking into consideration the number of days' notice required to complete the cancellation.

(g) Whenever such a financed insurance policy is canceled by any party for any reason:

(1) The insurer shall, in accordance with the written agreements of which it has notice, return to the lender such unearned premiums as are due to the lender. The amount of the return premiums shall be based upon the confirmed date of cancellation specified in

subdivision (e), or upon the written notice of cancellation specified in subdivision (d) in the case of an industrial loan company, lessened by the amount, if any, to compensate equitably the insurer for carrying the risk of loss as to any governmental agency, mortgagee, or other parties specified in subdivision (f) from that date to the effective date of cancellation as to those parties.

(2) When a financed insurance policy is canceled, or the insured discontinues payments to a lender, the insurer shall calculate the return premium on a pro rata basis. This paragraph shall not apply to any policy issued under an assigned risk plan or to any policy with respect to which the insurer has made a loan to the insured for the purposes of payment of premiums for the policy.

(h) The commissioner may amend the rules and regulations of any assigned risk plan, fair plan, or similar plan to provide for the equitable assignment of insurance risks among insurers now in existence or hereafter established, in such manner as may be necessary to carry out the purposes of this section.

(i) A lender which sends a written exercise of cancellation right or a written notice of cancellation to an insurer, as provided in subdivision (c), or subdivision (d) in the case of an industrial loan company, thereby represents that he or she has a valid right so to do and to receive the unearned premium. If the lender thereby accomplishes the cancellation and receives an unearned premium, such representation shall be conclusive as between the insurer and the lender. An insurer relying upon the written exercise of that right containing a confirmation of cancellation date and giving, when applicable, notice as required by subdivision (e), shall be relieved from complying with any other duty or form of cancellation required by this code.

(j) This section shall not apply where the insurer exercises its own right to cancel the policy for nonpayment of premium, direct or indirect, or otherwise. Such a cancellation shall be subject to all applicable provisions of the policy, this code, except this section, and any rights of the lender of which the insurer has written notice.

(k) This section shall apply only to contracts entered into between an insured and a lender on or after January 1, 1974.

SEC. 100. Section 923.5 of the Insurance Code is amended to read:

923.5. Each insurer transacting business in this state shall at all times maintain reserves in an amount estimated in the aggregate to provide for the payment of all losses and claims for which the insurer may be liable, and to provide for the expense of adjustment or settlement of losses and claims.

The reserves shall be computed in accordance with regulations made from time to time by the commissioner. The promulgation of the regulations by the commissioner, or any changes thereto or amendments thereof, shall be in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commissioner

shall make the regulations upon reasonable consideration of the ascertained experience and the character of such kinds of business for the purpose of adequately protecting the insured and securing the solvency of the insurer.

With respect to liability, common carrier liability, and compensation insurance, the regulations shall be consistent with Section 11558.

The commissioner may prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

This section shall not apply to life insurance, title insurance, disability insurance, mortgage insurance, or mortgage guaranty insurance.

SEC. 101. Section 1280.5 of the Insurance Code is amended to read:

1280.5. This chapter and the other provisions of this code shall not apply to nor affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of, or persons marketing their products through, nonprofit cooperative marketing associations organized and operating under Chapter 4 (commencing with Section 11701) of Division 6 of the Food and Agricultural Code which indemnify solely in respect to losses to those members or persons from damage to, or destruction of, crops in process of handling or marketing, or facilities at a fixed location for processing, handling or marketing the crops, and which do not collect in advance of loss moneys other than for necessary expense of administration.

SEC. 102. Section 1764.3 of the Insurance Code is amended to read:

1764.3. If the surplus line broker acts in reliance on advice received in accordance with subdivision (b) of Section 1764.2, the broker shall deliver the policy to the insured or his or her representative, and, if the delivery is not made within 30 days after the date of the issuance of the certificate or upon which the risk has been bound or the insured or applicant has been advised that coverage has been or will be obtained, he or she shall deliver to the insured either of the following:

(a) A photostatic copy of evidence that the insurance has been bound.

(b) If the nonadmitted insurer is located outside the United States, a cover note, placing slip or similar document evidencing coverage issued or certified to by any broker located outside the United States who actually placed that insurance with the nonadmitted insurer.

SEC. 103. Section 1764.4 of the Insurance Code is amended to read:

1764.4. The prior written authority, policy of insurance or copy of evidence that insurance has been bound referred to in Section 1764.2, shall contain authentication by all persons assuming any risk of loss, and, if there is more than one such person, both it and any document

issued or certified by the placing broker pursuant to subdivision (b) of Section 1764.3 , shall contain a specification of whether their obligation is joint or several, and if the latter, the proportion of the obligation assumed by each person.

SEC. 104. Section 1813 of the Insurance Code is amended to read:

1813. The commissioner, after notice and hearing, in accordance with the procedure provided in Article 13 (commencing with Section 1737) of Chapter 5 may suspend, revoke, or deny any license or certificate of authority issued pursuant to any provision of this code whenever he or she finds that the holder thereof has violated any provisions of this chapter.

SEC. 105. Section 1821 of the Insurance Code is amended to read:

1821. A license shall not be refused by the commissioner without proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, being initiated within 60 days from the date of filing the completed application.

Sections 1724.5, 1733, 1734, 1735 and Articles 6 (commencing with Section 1666) and 13 (commencing with Section 1737) of Chapter 5 apply to persons licensed under this chapter, and "insurance agent" or "licensee", as used in those provisions, include persons licensed under this chapter.

SEC. 106. Section 10252 of the Insurance Code is amended to read:

10252. No person shall sell or offer for sale any such funeral insurance contract in this state unless he or she is licensed as a life agent pursuant to the provisions of Chapter 5 (commencing with Section 1621).

SEC. 107. Section 10495 of the Insurance Code is amended to read:

10495. A certificate of exemption may be procured from the commissioner by filing with him or her certified copies of the articles of incorporation, association, bylaws, rules and regulations, or other organization or governing documents of the applicant together with certified copies of any evidences of insurance which it may issue and a statement of the operations of the applicant. There shall also be filed with the application a statement of the financial condition and income and disbursement exhibit of the applicant in such form as the commissioner may, in his or her discretion, find necessary in order to determine whether the applicant complies with the applicable requirements of this article. The commissioner may, pursuant to Article 4 (commencing with Section 730) of Chapter 1 of Part 2 of Division 1, require from any person transacting life or disability insurance, whether or not an applicant for a certificate of exemption, such information as will enable him or her to determine whether or not the person is transacting life or disability insurance in conformity with or in violation of this code.

SEC. 108. Section 10496 of the Insurance Code is amended to read:

10496. Any person transacting life or disability insurance without a certificate of authority so to do issued by the commissioner shall not give, allow, or promise to give or allow any compensation for procuring new members. "Compensation", as used herein, is confined to a payment, percentage, bonus, or monetary credit given, promised, or allowed for the securing of new members which, directly or by any arrangement, understanding, or device, is based, in whole or in part, upon the number of new members or reinstatements procured, or the nominal or contingent value of their certificates or policies, or the net or gross amount of dues or premiums paid or payable by them or upon any other variable result or contingency.

SEC. 109. Section 11099 of the Insurance Code is amended to read:

11099. Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 applies to any society, except as otherwise provided in this chapter.

SEC. 110. Section 11101 of the Insurance Code is amended to read:

11101. Except as otherwise provided in Sections 11102 and 11103, such agents and such societies are subject to Chapter 5 (commencing with Section 1621) of Part 2 of Division 1 and those agents shall be licensed as life agents. Those agents are also subject to Sections 750, 751, and 760.5, and the terms "insurance agent" and "life agent" as used in those sections include the agents of those societies.

SEC. 111. Section 11102 of the Insurance Code is amended to read:

11102. Chapter 5 (commencing with Section 1621) of Part 2 of Division 1 does not apply to any of the following, nor shall any of the following be required to be licensed as life agents:

(a) Any officer of a local lodge of a society, while acting as such, if that officer (1) does not effect insurance, (2) solicits or negotiates only as a part of, and in connection with, the business of a fraternal agent licensed in accordance with the provisions of Section 11101, and (3) is not remunerated on a commission basis.

(b) Any member of a society who does not effect insurance and whose solicitation or negotiation is incidental to the securing of new members for the society and whose only remuneration therefor consists of prizes in the form of merchandise or payments of a nominal amount. This subdivision does not exempt from the provisions of Chapter 5 nor from the license requirement of Section 11101 any person remunerated on a regular salary or commission basis or employed either full or part time for the purpose of soliciting or negotiating fraternal benefit insurance.

(c) Any person directly employed by a society at the home or a branch office thereof who does not solicit or negotiate fraternal benefit insurance and who receives no commissions but who may, as a part of his or her regular employment, sign policies, certificates, or other evidences of fraternal benefit insurance.

(d) Any person whose employment does not include the solicitation, negotiation, or effecting of fraternal benefit insurance contracts and who does not sign policies, certificates, or any other evidences of those contracts.

SEC. 112. Section 11103 of the Insurance Code is amended to read:

11103. Insofar as his or her license to represent a fraternal benefit society is concerned, the examination requirements of Article 7 (commencing with Section 1675) of Chapter 5 of Part 2 of Division 1 does not apply to any agent of a society who was in the service of a society on March 1, 1945, and who is licensed to represent a fraternal benefit society on January 1, 1952, and continuously thereafter, nor to any agent of a society who does not devote substantially full time to the sale of life or disability insurance, whether that insurance is provided by insurance policies or by fraternal benefit policies or certificates. If any person exempted from such examination requirements by virtue of not devoting substantially full time to the sale of life or disability insurance as hereinabove provided, shall, after securing a license pursuant to the provisions of this section, thereafter devote substantially full time to the sale of such insurance, the society shall give notice thereof to the commissioner. The commissioner thereupon shall send to the licensee a notice specifying when the examination fee shall be paid and when, not sooner than one month nor later than three months the licensee must qualify by examination. Failure to pass the examination or failure to appear pursuant to notification shall result in a termination 45 days thereafter of all license privileges unless within such 45-day period the licensee passes the examination. The licensee shall not be permitted to retake the examination more than twice within that 45-day period. Thereafter the person may be licensed as a fraternal benefit agent only if he or she files a new application for the license and either (a) takes and passes the qualifying examination or (b) demonstrates affirmatively to the commissioner that he or she will no longer devote substantially full time to the sale of life or disability insurance.

SEC. 113. Section 11107 of the Insurance Code is amended to read:

11107. A fraternal benefit society, its members, employees, agents, delegates, directors, and officers by whatever name known are subject to Section 12924.

SEC. 114. Section 11128 of the Insurance Code is amended to read:

11128. The value of the trusteed assets referred to in Section 11127 shall be equal to the sum of all of the following:

(a) All of the indebtedness of that society in the United States having a fixed maturity.

(b) The percentage, specified in subdivision (c), of that part of the tabular reserve which is applicable to its United States business in force.

(c) If the valuation report prescribed by Section 11133 indicates that the degree of actuarial solvency of the society is 100 percent or greater, the percentage prescribed in subdivision (b) is 100 percent. Otherwise the percentage prescribed in subdivision (b) is that percentage, less than 100 percent, which is indicated in the valuation report to be the degree of that society's actuarial solvency. The society may maintain those trusteed assets in excess of the value herein prescribed.

SEC. 115. Section 11440 of the Insurance Code is amended to read:

11440. Any insurer so reorganized shall have assets representing a paid-in capital represented by shares of stock apart from any assets described in Section 11441. At least two hundred thousand dollars ($200,000) of that capital shall be paid up before the insurer issues any policies on the reserve plan.

SEC. 116. Section 11443 of the Insurance Code is amended to read:

11443. The fund required by Section 11442 shall be used for the payment of matured liabilities arising under the assessment plan when other assets applicable thereto are exhausted. It may be derived from the excess over two hundred thousand dollars ($200,000) of the paid-in capital of the insurer. It need be maintained only during the existence of conditions set forth in Section 11442.

SEC. 117. Section 11472 of the Insurance Code is amended to read:

11472. The commissioner shall exercise the powers and discharge the duties, concerning any such insurer, that are applicable to domestic insurers issuing policies of the same class. He or she shall issue a certificate of authority to transact the proper classes of insurance in this state to any such insurer which is solvent as to its reserve basis policies under Article 13 (commencing with Section 980) of Chapter 1 of Part 2 of Division 1, and has fully complied with the laws of this state.

SEC. 118. Section 11490 of the Insurance Code is amended to read:

11490. Any life insurer which has transformed its business pursuant to this chapter shall value its assessment policies according to the standard of valuation which would be used in the absence of the transformation, and shall value its nonassessable reserve basis policies according to the standard of valuation set forth in Article 3 (commencing with Section 10478) of Chapter 5. The various kinds of insurance written shall be governed by the provisions of this code applicable thereto.

SEC. 119. Section 11521.5 of the Insurance Code is amended to read:

11521.5. The commissioner may adopt reasonable rules and regulations as may be necessary to carry out the provisions of this chapter pursuant to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government

Code. Pursuant to these provisions, the commissioner may also amend or repeal the rules and regulations.

SEC. 120. Section 11522 of the Insurance Code is amended to read:

11522. Every organization or person holding a certificate of authority to receive transfers under this chapter shall file with the commissioner a copy of each agreement entered into between such permit or certificate holder and the transferor.

SEC. 121. Section 11556 of the Insurance Code is amended to read:

11556. The reserve for outstanding losses and loss expenses under such liability or compensation insurance shall be determined in accordance with the regulations of the commissioner promulgated pursuant to Section 923.5.

SEC. 122. Section 11756 of the Insurance Code is amended to read:

11756. (a) Any person, insurer, or organization, who fails to comply with a final order of the commissioner under this article shall be liable to the state in an amount not exceeding fifty dollars ($50), but if the failure is willful, he, she, or it shall be liable to the state in an amount not exceeding five thousand dollars ($5,000) for the failure. The commissioner shall collect the amount so payable and may bring an action in the name of the people of the state of California to enforce collection. These penalties may be in addition to any other penalties provided by law.

(b) A willful violation of the provisions of this article by any person is a misdemeanor.

SEC. 123. Section 12110 of the Insurance Code is amended to read:

12110. An incorporated insurer which does not issue fire, marine, life, liability, workers' compensation, common carrier liability, surety, title or mortgage policies but does issue other insurance policies on a reserve basis shall be governed by the paid-in capital and surplus requirements of Sections 700.01 to 700.05, inclusive.

SEC. 124. Section 12382.1 of the Insurance Code is repealed.

SEC. 125. Section 12640.025 of the Insurance Code is amended to read:

12640.025. Notwithstanding the other loan or security requirements or definitions under subdivision (b) of Section 12640.02, a mortgage guaranty insurer may insure any type of loan which a bank, savings and loan association, mortgage banker, credit union, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make, or would be authorized to make disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

A loan insured by a mortgage guaranty insurer shall not exceed 95 percent of the fair market value of the real estate. However, if the

loan is secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate in conjunction with a pledge or lien on personal property in the form of cash, or equivalent, or is a loan of a type authorized by Section 1227.1, 1237, 7150.1, or 7153.9 of the Financial Code, or Section 1916.7, 1916.8, 1916.9, 1916.10, 1916.12, or Chapter 5 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of the Civil Code, the loan insured shall not exceed 100 percent of the fair market value of the real estate. Moreover, if the loan is of a type authorized by Section 1239 or 7153.10 of the Financial Code, the loan may exceed 95 percent of the fair market value of the real estate so long as it does not exceed the limits of the amount, percent of appraised value, and percent of sales price if applicable, specified in the applicable section.

Nothing herein contained shall be deemed to permit mortgage guaranty insurance on a loan secured by a mortgage, deed of trust, or other instrument unless it is (a) a first lien or charge, and (b) the improvement is on real estate and consists of a residential building or buildings designed for occupancy by not more than four families.

The commissioner may adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary to limit the amount of mortgage guaranty insurance in force on loans of the type authorized by Section 1227.1, 1237, 1239, 7150.1, 7153.9, or 7153.10 of the Financial Code, or Section 1916.7, 1916.8, 1916.9, 1916.10, 1916.12, or Chapter 5 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of the Civil Code. The rules and regulations, if adopted, shall apply to any insurer authorized to write and writing mortgage guaranty insurance in this state and shall be predicated on the total volume of that type of insurance written anywhere. Full compliance with those rules and regulations shall be a condition for renewal of the insurer's certificate of authority.

SEC. 126. Section 12640.18 of the Insurance Code is amended to read:

12640.18. The commissioner may adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary to carry out the provisions of this chapter, including, but not limited to, appropriate restrictions as to investments, giving full consideration to the desirability of high liquidity.

SEC. 127. Section 96 of the Labor Code is amended to read:

96. The Labor Commissioner and his or her deputies and representatives authorized by him or her in writing shall, upon the filing of a claim therefor by an employee, or an employee representative authorized in writing by an employee, with the Labor Commissioner, take assignments of:

(a) Wage claims and incidental expense accounts and advances.

(b) Mechanics' and other liens of employees.

(c) Claims based on "stop orders" for wages and on bonds for labor.

(d) Claims for damages for misrepresentations of conditions of employment.

(e) Claims for unreturned bond money of employees.

(f) Claims for penalties for nonpayment of wages.

(g) Claims for the return of workers' tools in the illegal possession of another person.

(h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.

(i) Awards for workers' compensation benefits in which the Workers' Compensation Appeals Board has found that the employer has failed to secure payment of compensation and where the award remains unpaid more than 10 days after having become final.

(j) Claims for loss of wages as the result of discharge from employment for the garnishment of wages.

SEC. 128. Section 135 of the Labor Code is amended to read:

135. In accordance with rules of practice and procedure which it may adopt, the appeals board may, with the approval of the Department of Finance, destroy or otherwise dispose of any file kept by it in connection with any proceeding under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100), after the file has been retained by it for a period of at least 25 years from the date of filing of the application to which the file pertains.

SEC. 129. Section 142.4 of the Labor Code is amended to read:

142.4. (a) Occupational safety and health standards and orders shall be adopted, amended, or repealed as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as modified by this chapter.

(b) If an emergency regulation is based upon an emergency temporary standard published in the Federal Register by the Secretary of Labor pursuant to Section 6(c)(1) of the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596), the 120-day period specified in Section 11422.1 of the Government Code shall be deemed not to expire until 120 days after a permanent standard is promulgated by the Secretary of Labor pursuant to Section 6(c)(3), of the Federal Occupational Safety and Health Act of 1970.

SEC. 130. Section 148.7 of the Labor Code is amended to read:

148.7. The appeals board, acting as a whole, may adopt, amend, or repeal rules of practice and procedure pertaining to hearing appeals and other matters falling within its jurisdiction. All such rules, amendments thereto, or repeals thereof shall be made in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 131. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall semimonthly or at the time of each payment of wages furnish each of his or her employees either

as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) gross wages earned; (2) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (3) net wages earned; (4) the inclusive dates of the period for which the employee is paid; (5) the name of the employee or his or her social security number; and (6) the name and address of the employer.

(b) Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney's fees.

SEC. 132. Section 1722.1 of the Labor Code is amended to read:

1722.1. For the purposes of this chapter, "contractor" and "subcontractor" include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770).

SEC. 133. Section 3211.92 of the Labor Code is amended to read:

3211.92. "Disaster service worker" means any natural person who is registered with a disaster council for the purpose of engaging in disaster service pursuant to the California Emergency Services Act without pay or other consideration.

"Disaster service worker" includes public employees and also includes any unregistered person impressed into service during a state of war emergency, a state of emergency, or a local emergency by a person having authority to command the aid of citizens in the execution of his or her duties.

Persons registered with a disaster council at the time that council becomes accredited need not reregister in order to be entitled to the benefits provided by Chapter 10 (commencing with Section 4351).

"Disaster service worker" does not include any member registered as an active firefighting member of any regularly organized volunteer fire department, having official recognition, and full or partial support of the county, city, or district in which such fire department is located.

SEC. 134. Section 3361.5 of the Labor Code is amended to read:

3361.5. Notwithstanding Section 3351, a volunteer, unsalaried person authorized by the governing board of a recreation and park district to perform volunteer services for the district shall, upon the adoption of a resolution of the governing board of the district so declaring, be deemed an employee of the district for the purposes of this division and shall be entitled to the workers' compensation benefits provided by this division for any injury sustained by him or her while engaged in the performance of any service under the direction and control of the governing board of the recreation and park district.

SEC. 135. Section 3725 of the Labor Code is amended to read:

3725. If an employer desires to contest a penalty assessment order, the employer shall file with the director a written request for a hearing within 20 days after service of the order. Upon receipt of the request, the director shall set the matter for a hearing within a reasonable time thereafter and shall notify the employer of the time and place of the hearing by mail at least 10 days prior to the date of the hearing. The decision of the director shall consist of a notice of findings and findings which shall be served on all parties to the hearing by registered or certified mail within 15 days after the hearing. Any amount found due by the director as a result of a hearing shall become due and payable 10 days after notice of the findings and written findings have been mailed by registered or certified mail to the party assessed. A writ of mandate may be taken from any such findings to the appropriate superior court upon the execution by the party assessed of a bond to the state in double the amount found due and ordered paid by the director, conditioned that the party will pay any judgment and costs rendered against it for the assessment. Such writ must be taken within 45 days after mailing the notice of findings and findings.

SEC. 136. Section 4152 of the Labor Code is amended to read:

4152. The statement, when filed, shall operate, within the meaning of Chapter 3 (commencing with Section 3600), to subject him or her to the compensation provisions thereof for the term of one year from the date of filing. Thereafter, without further act on his or her part, he or she shall be so subject for successive terms of one year each, unless at least 60 days prior to the expiration of such first or succeeding year, he or she files with the administrative director a notice that he or she withdraws his or her election.

SEC. 137. Section 4404 of the Labor Code is amended to read:

4404. Insofar as not inconsistent with the provisions of this chapter, all of the provisions of this division shall pertain to asbestos workers and their dependents for purposes of furnishing workers' compensation temporary disability and medical benefits thereto.

SEC. 138. Section 4413 of the Labor Code is amended to read:

4413. No limitation of time provided by this division shall run against the Asbestos Workers' Account to initiate proceedings before the Workers' Compensation Appeals Board when the account has made any payment of moneys, incurred any costs for services, or encumbered any liability of the account.

SEC. 139. Section 76 of the Military and Veterans Code is amended to read:

76. The annual salary of the director is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 140. Section 482 of the Military and Veterans Code is amended to read:

482. A resolution of issuance may provide for the issuance of revenue bonds in one or more series and for the aggregate principal amount of any series thereof. Any series of revenue bonds may

consist of serial revenue bonds or of term revenue bonds with sinking fund requirements or partially of serial revenue bonds and partially of term revenue bonds with sinking fund requirements. A resolution of issuance may provide for such supplemental resolutions of issuance as may from time to time be required to fix and determine the terms and conditions of each series of revenue bonds.

SEC. 141. Section 483.5 of the Military and Veterans Code is amended to read:

483.5. A resolution of issuance may include a provision authorizing, or limiting the power of, the department to issue additional revenue bonds and establishing the terms and conditions upon which additional bonds may be issued.

SEC. 142. Section 489.1 of the Military and Veterans Code is amended to read:

489.1. The department may, in any resolution of issuance, define the events of default, including among other things, default in the payment of the principal or interest upon or premium due upon any revenue bonds or default by the department in the observance of any of the covenants, agreements, or conditions on its part to be performed under the resolution of issuance, and may provide that upon the happening of any such event of default the holders of not less than the majority in aggregate principal amount of the revenue bonds at the time outstanding will be entitled to declare the principal of all of the revenue bonds then outstanding and the interest accrued thereon to be immediately due and payable.

SEC. 143. Section 557 of the Military and Veterans Code is amended to read:

557. No person shall, by reason of his or her enlistment or commission in any such forces, be exempted from military service under any law of the United States.

Sections 230 and 232 to 237, inclusive, apply to commissioned officers; Section 225 applies to warrant officers; and Sections 252, 253, 254 and 260, except subdivision (b) of Section 260 apply to enlisted personnel of the forces authorized herein. However, no provision of this code shall prevent the transfer, by order of the Governor, at any time, of any member of those forces to a reserve list created in the office of the Commanding General of the State Military Forces.

SEC. 144. Section 562 of the Military and Veterans Code is amended to read:

562. In all cases in which any officer, warrant officer or enlisted man or woman of the State Military Reserve, when organized or authorized as a cadre or otherwise, when in the performance of ordered duty, or when ordered into the active service of the state, is wounded, injured, disabled, or killed in active service, or in the performance of ordered duty and in line of duty, the officer or warrant officer or enlisted man or woman or the dependents of that officer or warrant officer or enlisted man or woman shall be entitled to receive compensation from the state in accordance with the provisions of Division 4 (commencing with Section 3201) of the

Labor Code. In all such cases, such an officer, warrant officer, enlisted man or woman shall be held and deemed to be an employee of the state. The compensation to be awarded to any such officer, warrant officer, enlisted man or woman shall be ascertained, determined, and fixed upon the basis of his or her average income from all sources during the year immediately preceding the date of the injury or death or the commencement of the disability, but the compensation shall in no case exceed the maximum prescribed in Division 4 (commencing with Section 3201) of the Labor Code.

In the determination of the benefits to be awarded any member of the State Military Reserve or his or her dependents under the provisions of this section it shall be conclusively presumed that the average yearly earning of the injured or deceased member is not less than two thousand five hundred dollars ($2,500). Any injury, death, or disability shall be deemed to have been suffered in line of duty unless the same resulted from misconduct or disobedience of lawful orders by the injured or deceased member.

SEC. 145. Section 566 of the Military and Veterans Code is amended to read:

566. Sections 9, 16, 141, 176, 188, 230, 361, 366, 389, 395.1, 395.01, 395.2, 395.02, 395.3, 395.03, 395.4, 395.5, 395.05, 395.06, 395.8, 411, 421, 423, 439, 612, 640, 641, 642, 643, 643.1, 644, 645, 646, 647, 648, and 649 apply to, and include, the forces authorized herein.

SEC. 146. Section 4799.12 of the Public Resources Code is amended to read:

4799.12. The director, with advice from other appropriate state agencies and interested parties, may make grants to provide assistance of 25 to 90 percent of project cost for projects meeting guidelines established by the board upon recommendation by the director. The board shall establish such guidelines by December 31, 1979. Grants may be made to cities, counties, districts, and nonprofit organizations. Contributions required as a condition of grants made pursuant to this section may be made in the form of material, services, or equipment, as well as funds. Authorized assistance shall include:

(a) Funding for development of urban tree plans which include coordination of local agency efforts and citizen involvement.

(b) Provision of seedling and tree stock.

(c) Funding and other assistance for demonstration projects in urban forestry with special attention given to energy conservation and wood and fiber utilization projects.

(d) Other categories of projects recommended by the director and approved by the board.

SEC. 147. Article 2 (commencing with Section 2831) of Chapter 8 of Part 2 of Division 1 of the Public Utilities Code is repealed.

SEC. 148. Article 2 (commencing with Section 2881) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 2. Customer and Subscriber Services

2881. The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severely hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severely hearing impaired by a licensed physician, audiologist, or a qualified state agency. The commission shall phase-in this program, on a geographical basis, over a four-year period ending on January 1, 1984. The commission shall establish a rate recovery mechanism to allow telephone corporations to recover costs as they are incurred under this section.

SEC. 149. Section 6561 of the Revenue and Taxation Code is amended to read:

6561. Any person against whom a determination is made under Article 2 (commencing with Section 6481) or 3 (commencing with Section 6511) or any person directly interested may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of that period.

SEC. 150. Section 6903 of the Revenue and Taxation Code is amended to read:

6903. No credit or refund of any amount paid pursuant to Chapter 3 (commencing with Section 6201) shall be allowed to any person on the ground that the storage, use, or other consumption of the property is exempted under Section 6401 unless the person establishes to the satisfaction of the board that his or her vendor has paid the sales tax to the state with respect to the sale of the property.

SEC. 151. Section 7204.4 of the Revenue and Taxation Code is amended to read:

7204.4. The Secretary of the Business, Transportation and Housing Agency and the Controller shall charge for the cost of their services in administering the responsibilities assigned to them in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. Amounts to be charged shall be specified in the Budget Act. Those amounts shall be deducted from the taxes collected by the board for the counties and the cities and counties.

SEC. 152. Section 12631 of the Revenue and Taxation Code is amended to read:

12631. Any insurer who fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the rate of 1 percent per month, or fraction thereof, from the due date of the tax until the date of payment.

SEC. 153. Section 12978 of the Revenue and Taxation Code is amended to read:

12978. No credit or refund shall be allowed or approved after four years after April 1st of the year following the year for which the overpayment was made, or with respect to a deficiency assessment made under Article 3 (commencing with Section 12421) of Chapter 4 after six months from the date the deficiency assessment becomes final, or after six months from the date of the overpayment, whichever period expires the later, unless a claim therefor is filed with the commissioner or the board within that period.

SEC. 154. Section 17052.8 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended and renumbered to read:

17052.3. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 40 percent of the cost (including installation charges, monthly lease payments but excluding interest charges) incurred by the taxpayer of any energy conservation measure on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed fifteen hundred dollars ($1,500). The owner of the premises on which the energy conservation measure is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measure was installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the energy conservation measure is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost (including

installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the energy conservation measure.

(4) If an energy conservation measure serves two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the energy conservation system by the number of dwelling units served by the energy conservation measure, and applying the formula described in paragraph (2) to the per dwelling cost.

In the case of taxpayers who qualify for a refund provided for under this subdivision, whose credits exceed their tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Section 17061 and 1855.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed.

(5) Taxpayers who partially own and partially lease an energy conservation measure from a utility or other lessor shall receive a tax credit equal to 40 percent of the purchased portion of the energy conservation measure (including installation charges, but excluding interest charges) and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the energy conservation tax credit allowance terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the energy conservation measure (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the energy conservation measure. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(6) The basis amount of any energy conservation measure eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such energy conservation measure.

(7) The credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance provided by a utility or a public entity (other than interest charges).

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which an energy conservation measure is installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part. The tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for a conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation

measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18551.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences and individual units of a condominium, cooperative, mobilehome, or apartment.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exterior to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulating all accessible insulated transverse heating and cooling system ducts and plenums which enter or leave unheated or uncooled areas.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water, reduce heat loss and water evaporation.

(H) Such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended

as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to, all of the following:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, multiglazed windows and doors, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting.

(vi) Insulation for floors and walls.

(I) For premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Services modifying the openings of heating and cooling systems which achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heating, absorbing or heat reflective glazed windows and door materials, exterior shading devices, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling or glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting.

(vi) Insulation of floors and walls.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), and (I), shall be ineligible as energy

conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1983, unless a later enacted statute which is chaptered before December 31, 1983, deletes or extends such date.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may, as an alternative to the credit, elect to take depreciation pursuant to Section 17208.7. Also, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or any prior taxable year as a solar energy system.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) Notwithstanding the provisions of subdivision (d), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (6) of subdivision (b).

SEC. 155. Section 17052.8 of the Revenue and Taxation Code, as added by Chapter 906 of the Statutes of 1980, is amended and renumbered to read:

17052.4. (a) (1) There shall be allowed as a credit against the amount of net tax imposed by this part an amount equal to 50 percent of the cost incurred by the taxpayer during the taxable year for the acquisition and installation of solar pumping systems used in agricultural irrigation on premises in California.

(2) A husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them.

(3) The basis of any solar pumping system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(4) The credit provided by this section for the cost incurred by the taxpayer for the acquisition and installation of solar pumping systems shall be in lieu of any credit under Section 17052.5 to which the taxpayer otherwise may be entitled, if any.

(b) The amount of credits allowed by this section shall not exceed seventy-five thousand dollars ($75,000) for each solar pumping system.

(c) If in the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until the

credit is used. The credit shall be applied first to the earliest years possible.

(d) For purposes of this section:

(1) "Installation" means placing in position in a functionally operative state.

(2) "Net tax" means the tax imposed under Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to state disability insurance withheld), Section 18551.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Solar pumping system" includes, but is not limited to, active thermal systems, photovoltaic systems, and any other system which converts solar energy into electrical or mechanical energy for purposes of driving an irrigation pump. "Solar pumping system" also includes the ancillary components necessary for the installation and operation of the system.

(e) The Franchise Tax Board, in determining the eligibility of a solar pumping system for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

SEC. 156. Section 17073 of the Revenue and Taxation Code is amended to read:

17073. (a) Except as provided in subdivision (b), for purposes of this part, "taxable income" means gross income, minus the deductions allowed by this part, other than the standard deduction allowed by Article 4 (commencing with Section 17171).

(b) In the case of an individual electing to use the standard deduction provided in Article 4 (commencing with Section 17171), for purposes of this part, "taxable income" means adjusted gross income, minus the standard deduction.

SEC. 157. Section 17297 of the Revenue and Taxation Code is amended to read:

17297. In computing taxable income, no deductions shall be allowed to any taxpayer on any of his or her gross income directly derived from illegal activities, as defined in Chapter 9 (commencing with Section 319), 10 (commencing with Section 330), or 10.5 (commencing with Section 337.1) of Title 9 of Part 1 of the Penal Code; nor shall any deductions be allowed to any taxpayer on any of his or her gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, the illegal activities. A prior, final determination by a court of competent jurisdiction of this state in any criminal proceedings, or any proceeding in which the state, county, city and county, city or other political subdivision was a party thereto on the merits of the legality of the activities of a taxpayer or predecessor in interest of a taxpayer shall be binding upon the Franchise Tax Board and State Board of Equalization.

SEC. 158. Section 18586.2 of the Revenue and Taxation Code is amended to read:

18586.2. If a taxpayer fails to report a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or fails to file an amended return as required by Section 18451, a notice of proposed deficiency assessment resulting from the adjustment may be mailed to the taxpayer within four years after the change, correction, or amended return is reported to or filed with the federal government.

SEC. 159. Section 18646 of the Revenue and Taxation Code is amended to read:

18646. The taxpayer may appeal to the board from the Franchise Tax Board's action on the petition for reassessment. The appeal shall be made in the manner prescribed by Section 18594. The provisions of Article 2 (commencing with Section 18581) of Chapter 18 relating to an appeal from the action of the Franchise Tax Board on a protest against an additional tax proposed to be assessed applies to the appeal.

SEC. 160. Section 19061.1 of the Revenue and Taxation Code is amended to read:

19061.1. If, with or after the filing of a protest or an appeal to the State Board of Equalization pursuant to Article 2 (commencing with Section 18581) of Chapter 18, a taxpayer pays the tax protested before the Franchise Tax Board acts upon the protest, or the board upon the appeal, the Franchise Tax Board or board shall treat the protest or the appeal as a claim for refund or an appeal from the denial of a claim for refund filed under this section.

SEC. 161. Section 26082 of the Revenue and Taxation Code is repealed.

SEC. 162. Article 2 (commencing with Section 30115) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 163. Article 3 (commencing with Section 30131) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 164. Section 30142 of the Revenue and Taxation Code is amended to read:

30142. The board shall fix the amount of the bond or bonds required of any distributor and may increase or reduce the amount at any time. A minimum bond or bonds in the amount of one thousand dollars ($1,000) shall be furnished by every distributor required to be licensed. If a distributor desires to defer payments for stamps or meter register settings, as provided in Article 2 (commencing with Section 30161) of Chapter 3.5, the board shall require a bond or bonds equal to 70 percent of the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

SEC. 165. Section 30151 of the Revenue and Taxation Code is amended to read:

30151. Every distributor, except one to whom a license is issued under Article 1 (commencing with Section 30140), required under

Section 30108 to collect the tax imposed under this part from a purchaser shall register with the board and give the names and addresses of all agents operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and such other information as the board may require.

SEC. 166. Section 30175 of the Revenue and Taxation Code is amended to read:

30175. The distributor against whom a determination is made under this article may petition for the redetermination thereof pursuant to Article 5 (commencing with Section 30241) of Chapter 4. He or she shall, however, file the petition for redetermination within the time prescribed by Section 30174 and shall, at the time of filing the petition, deposit with the board such security as it may deem necessary to insure compliance with this part. The security may be sold in the same manner as prescribed by Section 30243.

SEC. 167. Section 30180 of the Revenue and Taxation Code is amended to read:

30180. Articles 2 (commencing with Section 30201), 3 (commencing with Section 30221), 4 (commencing with Section 30241), and 6 (commencing with Section 30281) of Chapter 4 and Sections 30185, 30362, and 30366 do not apply to amounts due or paid with respect to purchases made of stamps or meter register settings. The remedies of the state provided in Chapter 5 (commencing with Section 30301) and the provisions of Chapter 6 (commencing with Section 30361), except for Sections 30362 and 30366, apply to amounts due or paid with respect to purchases made of stamps or meter register settings.

SEC. 168. Section 30181 of the Revenue and Taxation Code is amended to read:

30181. When any tax imposed under Article 1 (commencing with Section 30101) of Chapter 2 is not paid through the use of stamps or meter impressions, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a distribution of cigarettes occurs, or in the case of a sale of cigarettes on the facilities of a common carrier for which the tax is imposed pursuant to Section 30104, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a sale of cigarettes on the facilities of the carrier occurs.

SEC. 169. Section 30261 of the Revenue and Taxation Code is amended to read:

30261. Any person against whom a determination is made under Article 2 (commencing with Section 30201) or 3 (commencing with Section 30221) may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

SEC. 170. Section 32002 of the Revenue and Taxation Code is amended to read:

32002. Unless the context otherwise requires, the definitions set forth in this chapter and those in Chapter 1 (commencing with Section 23000) of Division 9 of the Business and Professions Code govern the construction of this part.

SEC. 171. Section 32004 of the Revenue and Taxation Code is amended to read:

32004. "Tax," as used in this part, except in Chapters 4 (commencing with Section 32151) and 5 (commencing with Section 32201), means the excise tax imposed by this part on beer or wine or on distilled spirits.

SEC. 172. Section 32010 of the Revenue and Taxation Code is amended to read:

32010. The taxes imposed by this part are in lieu of all county, municipal, or district taxes on the sale of beer, wine, or distilled spirits.

This section does not prohibit the application of Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) to the sale, storage, use or other consumption of beer, wine, or distilled spirits.

SEC. 173. Section 32101 of the Revenue and Taxation Code is amended to read:

32101. The issuance of any manufacturer's, winegrower's, wine blender's, distilled spirits manufacturer's agent's, rectifier's, wholesaler's, importer's, or customs broker's license under Division 9 (commencing with Section 23000) of the Business and Professions Code shall constitute the registration of the person to whom the license is issued as a taxpayer under this part. Upon the issuance of any such license the Department of Alcoholic Beverage Control shall furnish a copy thereof to the board.

SEC. 174. Section 32301 of the Revenue and Taxation Code is amended to read:

32301. Any person from whom an amount is determined to be due under Article 2 (commencing with Section 32271) or 3 (commencing with Section 32291) or any person directly interested may petition for a redetermination thereof within 30 days after service upon him or her of notice of the determination. If a petition for redetermination is not filed within the 30-day period, the amount determined to be due becomes final at the expiration thereof.

SEC. 175. Section 32402 of the Revenue and Taxation Code is amended to read:

32402. (a) Except as provided in subdivision (b) no refund shall be approved by the board after three years from the 15th day of the calendar month following the close of the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 32271), 3 (commencing with Section 32291) or 5 (commencing with Section 32311) of Chapter 6 within six months after the determinations become final, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the

board after the expiration of that period unless a claim for credit is filed with the board within that period, or unless the credit relates to a period for which a waiver is given pursuant to Section 32273.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 32273, if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

SEC. 176. Section 38613 of the Revenue and Taxation Code is amended to read:

38613. Within 90 days after the mailing of the notice of the board's action upon a claim filed pursuant to Article 1, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

Failure to bring action within the time specified constitutes a waiver of any demand against the state on account of alleged overpayments.

SEC. 177. Section 199.8 of the Streets and Highways Code is repealed.

SEC. 178. Section 291 of the Vehicle Code is amended to read:

291. Any reference in this code to the Department of Public Works shall be deemed to refer to the Department of Transportation, which is part of the Business, Transportation and Housing Agency as provided by Section 13975 of the Government Code.

SEC. 179. Section 1505 of the Vehicle Code is amended to read:

1505. The director, with the approval of the Governor and the Secretary of the Business, Transportation and Housing Agency, shall organize the department in such manner as he or she may deem necessary to conduct the work of the department.

SEC. 180. Section 3050 of the Vehicle Code is amended to read:

3050. The board shall do all of the following:

(a) Adopt rules and regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing such matters as are specifically committed to its jurisdiction.

(b) Hear and consider, within the limitations and in accordance with the procedure hereinafter provided, an appeal presented by an applicant for, or holder of, a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative when any such applicant or licensee submits such an appeal provided for in this chapter from a decision arising out of the department.

(c) Consider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor

branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person; and, after such consideration, the board may do any one or any combination of the following:

(1) Direct the department to conduct such investigation of such matter as the board deems reasonable, and make a written report on the results of such investigation to the board within the time specified by the board.

(2) Undertake to arbitrate amicably or resolve any honest difference of opinion or viewpoint existing between any member of the public and any new motor vehicle dealer, manufacturer, manufacturer branch, distributor branch, or representative.

(3) Order the department to exercise any and all authority or power that the department may have with respect to the issuance, renewal, refusal to renew, suspension or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as such license is required under Chapter 4 (commencing with Section 11700) of Division 5.

(d) Hear and consider, within the limitations and in accordance with the procedure hereinafter provided, a protest presented by a franchisee pursuant to Section 3060, 3062, 3064, or 3065. A member of the board who is a new motor vehicle dealer may participate in, hear, and comment or advise other members upon, but may not decide, any matter involving a protest filed pursuant to Article 4 (commencing with Section 3060).

SEC. 181. Section 4610 of the Vehicle Code is amended to read:

4610. The department may authorize an endorsement of a receipt or the validation of a registration card or potential registration card as provided in this code by a person or organization holding a certificate of authority issued under the provisions of Part 5 (commencing with Section 12140) of Division 2 of the Insurance Code.

SEC. 182. Section 6301 of the Vehicle Code is amended to read:

6301. When the secured party, his or her successor, or his or her assignee, has deposited with the department a properly endorsed certificate of ownership showing the secured party as legal owner or an application in usual form for an original registration, together with an application for registration of the secured party as legal owner, the deposit constitutes perfection of the security interest and the rights of all persons in the vehicle shall be subject to the provisions of the Uniform Commercial Code, but the vehicle subject to the security interest shall be subject to a lien for services and materials as provided in Chapter 6.5 (commencing with Section 3068) of Title 14 of Part 4 of Division 3 of the Civil Code.

SEC. 183. Section 8151 of the Vehicle Code is amended to read:

8151. Any person engaged in operating fleets of three or more commercial vehicles in this state in interstate commerce, may, in lieu of registration of the vehicles under the general provisions of this

division and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, register and license each fleet for operation in this state by filing a verified application with the department.

SEC. 184. Section 185 of the Water Code is amended to read:

185. The board shall adopt rules for the conduct of its affairs in conformity, as nearly as practicable, with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 185. Section 8371 of the Water Code is amended to read:

8371. The department shall, in connection with the flood control works of the Sacramento River Flood Control Project, make inspections and prepare reports which are required because of assurances given to the Secretary of the Army pursuant to Article 2 (commencing with Section 8615) of Chapter 3 of Part 4.

SEC. 186. Section 25400 of the Water Code is amended to read:

25400. Subject to the limitations of this chapter, revenue bonds, including refunding revenue bonds, may be issued by an irrigation district under and pursuant to the Revenue Bond Law of 1941, Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 187. Section 35191 of the Water Code is amended to read:

35191. At the first general district election following January 1, 1981, the number of directors to be elected shall correspond with the number of directors whose terms expire. The directors whose terms have not expired shall serve their unexpired terms under the qualification to hold office that existed prior to January 1, 1981. In that first election, and in all subsequent elections, the form of the ballot and the conduct of the election shall be governed by the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code) for resident voting elections.

SEC. 188. Section 36425 of the Water Code is amended to read:

36425. In addition to the charges authorized to be fixed and collected pursuant to Article 4 (commencing with Section 35470) of Chapter 2 of Part 5 of this division, the board in lieu, in whole or in part, of raising money for the payment of the principal of and interest on bonds and warrants of the district issued for an improvement district or for the operating expenses of that improvement district, may fix and collect charges for the making of water available to the holders of title to land in that improvement district or the occupants thereon. The additional charges within an improvement district shall be fixed and collected in substantially the same manner and upon the same terms and conditions as is provided in Article 4 for charges to be fixed and collected within the entire district, except that the additional charges fixed and collected from an improvement district shall be expended only for the payment of the principal of, and interest upon, bonds and warrants of the district issued for the improvement district or for payment of the operating expenses of

the improvement district.

SEC. 189. Section 800 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1095 of the Statutes of 1980, is amended to read:

800. A judgment in a proceeding under Section 601 or 602, or the denial of a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment. Pending appeal of the order or judgment, the granting or refusal to order release shall rest in the discretion of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition or even if the judgment is a dismissal of the petition or any count or counts thereof; however, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy in violation of the state or federal Constitution.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

All appeals shall be initiated by the filing of notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

SEC. 190. Section 14304 of the Welfare and Institutions Code is amended to read:

14304. (a) The director shall terminate a contract with a prepaid health plan if he or she finds that the standards prescribed in this chapter, the regulations, or the contract are not being complied with, that claims accrued or to accrue have not or will not be recompensed, or for other good cause shown. Except in the event that the director determines there is an immediate threat to the health of Medi-Cal beneficiaries enrolled in the plan, the Office of Administrative Hearings, at the request of the plan, shall hold a public hearing to commence 30 days after notice of intent to terminate the contract has been received by the plan. The department shall present evidence at the hearing showing good cause for the termination. The Office of Administrative Hearings shall provide its written recommendation to the department on the termination of the contract within 30 days after conclusion of the hearing. Reasonable notice of the hearing shall be given to the prepaid health plan, to Medi-Cal beneficiaries enrolled in the plan, and others who may be directly interested, including such other persons and organizations

as the director may deem necessary. The notice shall state the effective date of, and the reason for, the termination.

(b) In lieu of contract termination specified in subdivision (a), the director shall have the power and authority to take one or more of the following sanctions against a contractor for noncompliance with the standards prescribed in this chapter, the regulations or the contract:

(1) Suspend enrollment and marketing activities.

(2) Require the contractor to suspend or terminate contractor personnel or subcontractors.

(3) Impose civil penalties not to exceed five thousand dollars ($5,000) per violation pursuant to regulations adopted by the director.

The director shall give reasonable notice of his or her intention to apply any of the sanctions authorized by this subdivision to the prepaid health plan and others who may be directly interested, including such other persons and organizations as the director may deem necessary. The notice shall include the effective date, the duration of, and the reason for each sanction proposed by the director.

(c) Notwithstanding subdivision (b), the director shall terminate a contract with a prepaid health plan which the United States Secretary of Health and Human Services has determined does not meet the requirements for participation in the Medicaid Program (Title XIX of the Social Security Act).

(d) Proceedings to impose the sanctions in subdivision (b) shall be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director may collect civil penalties by withholding the amount from capitation owed to the plan.

Proceedings to terminate a prepaid health plan contract under subdivisions (a) and (c) shall be governed by the provisions of subdivision (a).

SEC. 191. Section 2 of Chapter 327 of the Statutes of 1979 is amended to read:

Sec. 2. The Teachers' Retirement Board shall notify the chairmen of the appropriate policy committees in each House of the Legislature if the board employs investment personnel on its staff or through interagency agreement for the purpose of managing equity investments pursuant to the provisions of Section 22307 of the Education Code as amended by this act.

SEC. 192. Section 2 of Chapter 505 of the Statutes of 1980 is amended to read:

Sec. 2. Nothing in this act or any other provision of law shall invalidate an ordinance of, or be construed to prohibit the adoption of an ordinance by, a city or county or a city and county regulating the sale or display to persons under the age of 18 years of items described in Section 11364.5 of the Health and Safety Code or in Section 308 of the Penal Code.

SEC. 193. Any section of any act enacted by the Legislature during the 1982 portion of the 1981–82 Regular Session, which takes effect on or before January 1, 1983, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 455

An act to amend Section 56403 of the Government Code, relating to local government.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 56403 of the Government Code is amended to read:

56403. An order establishing a district of limited powers as a subsidiary district may be adopted if upon the date of such order either of the conditions specified in subdivision (a) or (b) is satisfied:

(a) The entire territory of such district shall be included within the boundaries of a city.

(b) A portion or portions of the territory of such district are included within the boundaries of a city and such portion or portions shall both:

(1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.

(2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' registrar in the office of the county clerk or registrar of voters.

CHAPTER 456

An act to add Section 319.5 to the Penal Code, relating to lotteries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 319.5 is added to the Penal Code, to read:

319.5. Neither this chapter nor Chapter 10 (commencing with Section 330) applies to the possession or operation of a reverse vending machine. As used in this section a reverse vending machine is a machine in which empty beverage containers are deposited for recycling and which provides a payment of money, merchandise, vouchers, or other incentives at a frequency less than upon each deposit. The pay out of a reverse vending machine is made on a deposit selected at random within the designated number of required deposits.

The deposit of an empty beverage container in a reverse vending machine does not constitute consideration within the definition of lottery in Section 319.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the continued efficient implementation of solid waste management and recycling programs, it is necessary that this act take effect immediately.

CHAPTER 457

An act to amend Section 12673 of the Business and Professions Code, relating to product standards.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 12673 of the Business and Professions Code is amended to read:

12673. The provisions of this chapter shall not apply to:

(a) Bread not sold, or not intended to be sold, to retail consumers.

(b) "Stale bread" when sold as such.

CHAPTER 458

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500), Division 7, Title 1 of the Government Code.

Air pollution control districts.
Air quality management districts.
Airport districts.
Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.

Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100), Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authority.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement district improvement districts.
Municipal improvement assessment districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.

Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.

Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body

heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving an alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of said matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render

the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Third Validating Act of 1982.

CHAPTER 459

An act to amend Section 70141.6 of the Government Code, relating to courts.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 70141.6 of the Government Code is amended to read:

70141.6. (a) In Kern County, the superior court may provide that the commissioner, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and the duties of a probate commissioner appointed pursuant to Section 69897.

(b) The commissioner shall receive a salary equal to 70 percent or 75 percent of the annual salary for a superior court judge. The commissioner shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern in an amount equivalent to 70 or 75 percent of a superior court judge's salary. The court shall determine the level of salary to be received by the commissioner based on qualifications, performance, and other factors deemed relevant by the court. The biweekly salary rate of the commissioner shall be adjusted at the same time and manner and in the same percentage amount as set forth in Section 68203. The commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

(c) In addition to the compensation provided for in this section, the commissioner shall be entitled to and shall receive on the same basis as other county employees, the same benefits and privileges, with respect to retirement, group insurance, sick leave, and vacation. The commissioner shall observe the same holidays as other court employees.

CHAPTER 460

An act to amend Section 65956 of the Government Code, relating to development projects.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 65956 of the Government Code is amended to read:

65956. (a) If any provision of law requires the lead agency or responsible agency to hold a public hearing on the development project and the agency has not held such hearing at least 60 days prior to the expiration of the time limits established by Sections 65950 and 65952, the applicant or his or her representative may file an action pursuant to Section 1085 of the Code of Civil Procedure to compel the agency to hold such hearing and the court shall give such proceedings preference over all other civil actions or proceedings, except older matters of the same character.

(b) In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by this article, such failure to act shall be deemed approval of the development project.

(c) Failure of an applicant to submit complete or adequate information may constitute grounds for disapproving a development project.

CHAPTER 461

An act to amend Sections 328 and 626 of, and to add Sections 307.5 and 626.5 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 307.5 is added to the Welfare and Institutions Code, to read:

307.5. Notwithstanding the provisions of Section 307, an officer who takes a minor suspected of being a person described in Section 300 into temporary custody pursuant to subdivision (a) of Section 305 may, in a case where he or she deems that it is in the best interest of the minor and the public, take the minor to a community service program for abused or neglected children. Organizations or

programs receiving referrals pursuant to this section shall have a contract or an agreement with the county to provide shelter care or counseling. Employees of a program receiving referrals pursuant to this section are "child care custodians" for the purpose of the requirements of Section 11166 of the Penal Code. The receiving organization shall take immediate steps to notify the minor's parent, guardian, or a responsible relative of the place to which the minor was taken.

SEC. 2. Section 328 of the Welfare and Institutions Code is amended to read:

328. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 300, the probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. However, this section does not require an investigation by the probation officer with respect to a minor delivered or referred to any agency pursuant to Section 307.5, unless that agency requests the probation officer to do so.

The probation officer shall interview any minor four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the minor's view of the home environment. If proceedings are commenced, the probation officer shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the probation officer shall include the substance of the interview in the social study required by Section 358.

SEC. 3. Section 626 of the Welfare and Institutions Code is amended to read:

626. If an officer who takes a minor into temporary custody under the provisions of Section 625 determines that the minor does not need to be brought to the attention of the juvenile court, he or she shall take one of the following actions:

(a) He or she may release the minor.

(b) He or she may deliver or refer the minor to a public or private agency with which the city or county has an agreement or plan to provide shelter care, counseling, or diversion services to minors so delivered. In determining which disposition of the minor he or she will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, if that alternative is compatible with the best interests of the minor and the community.

SEC. 3. Section 626.5 is added to the Welfare and Institutions Code, to read:

626.5. If an officer who takes a minor into temporary custody under the provisions of Section 625 determines that the minor should be brought to the attention of the juvenile court, he or she shall take one of the following actions:

(a) He or she may prepare in duplicate a written notice to appear before the probation officer of the county in which the minor was

notice shall also contain a concise statement of the reasons the minor was taken into custody. The officer shall deliver one copy of the notice to the minor or to a parent, guardian, or responsible relative of the minor and may require the minor or his or her parent, guardian, or relative, or both, to sign a written promise that either or both will appear at the time and place designated in the notice. Upon the execution of the promise to appear, the officer shall immediately release the minor. The officer shall, as soon as practicable, file one copy of the notice with the probation officer.

(b) He or she may take the minor without unnecessary delay before the probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts took place or the circumstances exist which are alleged to bring the minor within the provisions of Section 601 or 602, and deliver the custody of the minor to the probation officer. In no case shall he or she delay the delivery of the minor to the probation officer for more than 24 hours if the minor has been taken into custody without a warrant on the belief that he has committed a misdemeanor.

In determining which disposition of the minor he or she will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.

CHAPTER 462

An act to amend Sections 2913, 2947, 2960, 2970, 2971, and 2986 of, and to add Sections 2934, 2964, 2964.5, and 2988 to, the Business and Professions Code, relating to psychologists, and making an appropriation therefor.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 2913 of the Business and Professions Code is amended to read:

2913. A person other than a licensed psychologist may be employed by a licensed psychologist, by a licensed physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology, by a clinic which provides mental health services under contract pursuant to Section 5614 of the Welfare and Institutions Code, by a psychological corporation, by a licensed psychology clinic as defined in subdivision (c) of Section 1204 of the Health and Safety Code, or by a medical corporation to perform limited psychological functions provided that all of the following apply:

(a) The person is termed a "psychological assistant."

(b) The person (1) has completed a master's degree in psychology or education with the field of specialization in psychology

or counseling psychology, (2) has status as an active candidate in good standing for a doctoral degree in psychology or education with the field of specialization in psychology or counseling psychology, or (3) has completed a doctoral degree which qualifies for licensure under Section 2914, in an accredited or approved university, college, or professional school located in the United States or Canada. Any person who was registered as a psychological assistant prior to January 1, 1980 who does not meet the requirements of this subdivision shall comply with these requirements on or before January 1, 1983 in order to maintain such registration.

(c) The person is at all times under the immediate supervision, as defined in regulations adopted by the committee, of a licensed psychologist, or board certified psychiatrist, who shall be responsible for insuring that the extent, kind, and quality of the psychological services he or she performs are consistent with his or her training and experience and be responsible for his or her compliance with the provisions of this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist, board-certified psychiatrist, contract clinic, psychological corporation, or medical corporation, has registered the psychological assistant with the committee. The registration shall be renewed annually in accordance with regulations adopted by the committee.

No licensed psychologist may register, employ, or supervise more than three psychological assistants at any given time unless specifically authorized to do so by the committee. No board-certified psychiatrist may register, employ, or supervise more than one psychological assistant at any given time. No contract clinic, psychological corporation, or medical corporation may employ more than 10 such assistants at any one time. No contract clinic may register, employ, or provide supervision for more than one psychological assistant for each designated full-time staff psychiatrist who is qualified and supervises the psychological assistants. No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise, except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation, or medical corporation.

(e) The psychological assistant shall comply with regulations that the committee may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the committee to be in violation of the provisions of Section 2960 and the rules and regulations duly adopted thereunder.

SEC. 2. Section 2934 is added to the Business and Professions Code, to read:

2934. Notwithstanding Section 112, the committee may issue, biennially, a current geographical directory of licensed psychologists. The directory may be sent to licensees and to other interested parties at cost.

SEC. 3. Section 2947 of the Business and Professions Code is amended to read:

2947. The committee may appoint qualified persons to give the whole or any portion of any examination provided for in this chapter, who shall be designated as commissioners on examination. A commissioner on examination need not be a member of the committee but he or she shall have the same qualifications as a member of the committee, including those set forth in Chapter 6 (commencing with Section 450) of Division 1. The committee may also appoint occasional professional commissioners for short-term specified periods to assist in its nonpolicy workload.

Public commissioners may examine and evaluate candidates in areas of knowledge such as the law, ethics, and awareness of community resources.

SEC. 4. Section 2960 of the Business and Professions Code is amended to read:

2960. The committee may order the denial of an application for, or issue with terms and conditions, or the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a license or registration for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state of a license or certificate to practice psychology or as a psychological assistant issued by that state to a person also holding a license or registration issued under this chapter

if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(o) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

SEC. 5. Section 2964 is added to the Business and Professions Code, to read:

2964. Whenever the committee orders a license revoked for cause, with the exception of nonpayment of fees, or restores a license, these facts shall be reported to all other state psychology licensing boards.

SEC. 6. Section 2964.5 is added to the Business and Professions Code, to read:

2964.5. The committee at its discretion may require any licensee placed on probation or whose license is suspended, to obtain additional professional training, to pass an examination upon the completion of that training, and to pay the necessary examination fee. The examination may be written or oral or both, and may include a practical or clinical examination.

SEC. 7. Section 2970 of the Business and Professions Code is amended to read:

2970. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand dollars ($2,000), or by both.

SEC. 8. Section 2971 of the Business and Professions Code is amended to read:

2971. Whenever any person other than a licensed psychologist has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the committee, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7, Part 2 of the Code of Civil Procedure, except that it shall be presumed that there is no adequate remedy at law, and that irreparable damage will occur if the continued violation is not restrained or enjoined. On the written request of the committee, or on its own motion, the Division of Allied Health Professions may commence action in the superior court under the provisions of this section.

SEC. 9. Section 2986 of the Business and Professions Code is amended to read:

2986. A person who fails to renew his license within the five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new license if he or she meets the requirements of this chapter provided that he or she:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure.

(b) Establishes to the satisfaction of the committee that with due regard for the public interest, he or she is qualified to practice psychology.

(c) Pays all of the fees that would be required if application for licensure was being made for the first time.

The committee may provide for the waiver or refund of all or any part of an examination fee in those cases in which a license is issued without examination pursuant to this section.

SEC. 10. Section 2988 is added to the Business and Professions Code, to read:

2988. A licensed psychologist who for reasons, including but not limited to ill health or absence from the state, is not engaged in the practice of psychology, may apply to the committee to request that his or her license be placed on an inactive status. A licensed psychologist who holds an inactive license shall pay a biennial renewal fee, fixed by the committee, at not more than forty dollars ($40), shall otherwise be subject to the provisions of this chapter and shall not engage in the practice of psychology in this state. Licensees on inactive status who have not committed any acts or crimes constituting grounds for denial of licensure may, upon their request and payment of the biennial active license renewal fee, have their license to practice psychology reinstated.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 463

An act to add Section 1812 to the Streets and Highways Code, relating to city streets.

[Became law without Governor's signature. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 1812 is added to the Streets and Highways Code, to read:

1812. Notwithstanding any other provision of law, the City of South Lake Tahoe may complete construction of the loop road from city funds, including preparation of any necessary environmental impact reports and securing any necessary approval of the Tahoe Regional Planning Agency.

CHAPTER 464

An act to amend Section 61601.3 of the Government Code, relating to districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1982. Filed with Secretary of State July 8, 1982.]

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

SECTION 1. Section 61601.3 of the Government Code, as added by Chapter 81 of the Statutes of 1982, is amended to read:

61601.3. Notwithstanding the provisions of Sections 61600 and 61601, whenever the board of directors of the Big Pine Community Services District or the San Juan Suburban Water District, a community services district, determines by resolution that it is feasible, economically sound, and in the public interest for that district to exercise its power for the purpose of constructing, installing, owning, maintaining, or operating hydroelectric power generating facilities, which facilities are constructed after March 1, 1982, and transmission lines for the conveyance thereof, the board shall adopt that additional purpose by resolution entered in the minutes, and that power of the district may be exercised thereafter.

The board may, thereafter, divest the district of the power to carry on those activities in the same manner as it may acquire the power.

The facilities shall be operated in a manner consistent with the district's storage, transmission, and distribution of domestic and irrigation water and in accordance with the provisions of Chapter 2.95 (commencing with Section 35580) of Part 5 of Division 13 of the Water Code.

SEC. 2. The Big Pine Community Services District has a potential source of hydroelectric power which can be generated in conjunction with the operation, storage, and transmission of domestic and irrigation waters of the district. That source is not common to other community services districts. The Legislature, therefore, finds and declares that a special law is necessary with respect to the Big Pine Community Services District, that the provisions of this act are needed to meet the special circumstances within the district, and that a general law cannot be made applicable.

CHAPTER 465

An act to repeal Sections 15711, 39640, 39641, 39648, 39649, 39649.1, and 39649.5 of the Education Code, to repeal Article 5 (commencing with Section 25450) of Chapter 5 of Division 2 of Title 3 of, Chapter 6 (commencing with Section 37900) of Division 3 of Title 4 of, and Sections 54113 and 54114 of, the Government Code, to add Part 3

(commencing with Section 20100) to Division 2 of the Public Contract Code, to amend Section 130258 of, and to repeal Sections 12845, 12846, and 16501 of, Article 3 (commencing with Section 25751) of Chapter 6 of Part 1 of Division 10 of, Sections 28990, 28991, and 28992 of, Article 3 (commencing with Section 30570) of Chapter 5 of Part 3 of Division 10 of, Article 3 (commencing with Section 40170) of Chapter 6 of Part 4 of, Article 3 (commencing with Section 50170) of Chapter 6 of Part 5 of, Article 3 (commencing with Section 70170) of Chapter 6 of Part 7 of, Article 3 (commencing with Section 90440) of Chapter 6 of Part 8 of, Article 3 (commencing with Section 96060) of Chapter 6 of Part 9 of, Article 3 (commencing with Section 98230) of Chapter 6 of Part 10 of, Section 100123 of, Article 3 (commencing with Section 101185) of Chapter 5 of Part 13 of, Sections 102223, 103224, 120224, and 125225 of, the Public Utilities Code, to repeal Sections 1071, 1072, 1073, 1074, 1075, 1076, 1076.1, 1188, 1320, 1325, 1325.5, 1326, 1327, 1328, 1329, 1331, and 1332 of, Chapter 8.5 (commencing with Section 5230), Chapter 9 (commencing with Section 5240), Chapter 10 (commencing with Section 5265), Chapter 11 (commencing with Section 5280), and Chapter 12 (commencing with Section 5290) of Part 3 of Division 7 of, Chapter 4 (commencing with Section 8175) of Part 2 of Division 9 of, Chapter 6 (commencing with Section 10500) of Division 12 of, Sections 18171, 18171.1, 18172, 18173, 18174, 18175, and 18176 of, Chapter 6 (commencing with Section 18420) of Part 2 of Division 14 of, Chapter 7 (commencing with Section 18760) of Part 3 of Division 14 of, Chapter 11 (commencing with Section 25250) of Part 1 of Division 16 of, Chapter 8 (commencing with Section 26140) of Part 2 of Division 16 of, the Streets and Highways Code, and to repeal Article 4 (commencing with Section 22300) of Chapter 2 of Part 5 of Division 11 of, Chapter 3 (commencing with Section 43300) of Part 6 of Division 14 of, Chapter 3 (commencing with Section 55350) of Part 3 of Division 16 of, and Sections 56056, 56057, and 56058 of, Article 2 (commencing with Section 70170) of Part 1 of Division 19 of, and Article 2 (commencing with Section 71740) of Chapter 5 of Part 5 of Division 20 of, the Water Code, and to repeal Article 3 (commencing with Section 6.10) of Chapter 1932 of the Statutes of 1961, and Section 8.1 of Chapter 104 of the Statutes of 1964, First Extraordinary Session, relating to public contracts.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 9, 1982.]

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

SECTION 1. Section 15711 of the Education Code is repealed.

SEC. 2. Section 39640 of the Education Code is repealed.

SEC. 3. Section 39641 of the Education Code is repealed.

SEC. 4. Section 39648 of the Education Code is repealed.

SEC. 5. Section 39649 of the Education Code is repealed.

SEC. 5.5. Section 39649.1 of the Education Code is repealed.

SEC. 6. Section 39649.5 of the Education Code is repealed.

SEC. 7. Article 5 (commencing with Section 25450) of Chapter 5 of Division 2 of Title 3 of the Government Code is repealed.

SEC. 8. Chapter 6 (commencing with Section 37900) of Division 3 of Title 4 of the Government Code is repealed.

SEC. 9. Section 54113 of the Government Code is repealed.

SEC. 10. Section 54114 of the Government Code is repealed.

SEC. 11. Part 3 (commencing with Section 20100) is added to Division 2 of the Public Contract Code, to read:

PART 3. CONTRACTING BY LOCAL AGENCIES

CHAPTER 1. LOCAL AGENCY PUBLIC CONSTRUCTION ACT

Article 1.

20100. This chapter may be cited as the Local Agency Public Construction Act.

Article 2.

20105. The provisions of this article shall apply to contracts subject to the State School Building Aid Law of 1949 provided for in Chapter 6 (commencing with Section 15700) of Part 10 of Division 1 of Title 1 of the Education Code.

20106. A school district shall not expend money apportioned under the State School Building Aid Law unless the contracts under which the funds are expended have been let after competitive bids pursuant to the Education Code.

Article 3.

20110. The provisions of this part shall apply to contracts awarded by school districts subject to Part 21 (commencing with Section 35000) of Division 3 of Title 2 of the Education Code.

20111. The governing board of any school district shall let any contracts involving an expenditure of more than twelve thousand dollars ($12,000) for work to be done or more than sixteen thousand dollars ($16,000) for materials or supplies to be furnished, sold, or leased to the district, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids. This section applies to all materials and supplies whether patented or otherwise.

20112. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time when and the place where bids

will be opened. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

20113. In an emergency when any repairs, alterations, work or improvement is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the board may by unanimous vote, with the approval of the county superintendent of schools, make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

20114. In each school district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance as defined in Section 20115 by day labor, or by force account, whenever the total cost of labor on the job does not exceed seven thousand five hundred dollars ($7,500), or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any school district having an average daily attendance of 35,000 or greater, the governing board may, in addition, make repairs to school buildings, grounds, apparatus or equipment, including painting or repainting, and perform maintenance as defined in Section 20115, by day labor or by force account whenever the total cost of labor on the job does not exceed fifteen thousand dollars ($15,000), or the total number of hours on the job does not exceed 750 hours, whichever is greater.

For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

20115. For purposes of Section 20114, "maintenance" means routine, recurring, and usual work for the preservation, protection, and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered, or repaired. "Facility" means any plant, building, structure, ground facility, utility system, or real property.

This definition of "maintenance" expressly includes, but is not limited to: carpentry, electrical, plumbing, glazing, and other craftwork designed consistent with the definition set forth above to preserve the facility in a safe, efficient, and continually usable condition for which it was intended, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

This definition does not include, among other types of work, janitorial or custodial services and protection of the sort provided by guards or other security forces.

It is the intent of the Legislature that this definition does not include painting, repainting, or decorating other than touchup, but instead it is the intent of the Legislature that such activities be

controlled directly by the provisions of Section 20114.

20116. It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

The district shall maintain job orders or similar records indicating the total cost expended on each project in accordance with the procedures established in the most recent edition of the California School Accounting Manual for a period of not less than three years after completion of the project.

Notwithstanding the provisions of Section 20111, informal bidding may be used on projects estimated by the district to cost up to and including the limits set forth in Section 20114. For the purpose of securing informal bids, the board shall publish annually in a newspaper of general circulation published in the district, or if there is no such newspaper, then in some newspaper in general circulation in the county, a notice inviting contractors to register to be notified of future informal bidding projects. All contractors included on the informal bidding list shall be given notice of all informal bid projects in such manner as the district deems appropriate.

Article 3.5.

20120. The provisions of this article shall apply to contracts awarded by counties subject to Title 3 (commencing with Section 23000) of the Government Code.

20121. Whenever the estimated cost of construction of any wharf, chute, or other shipping facility, or of any hospital, almshouse, courthouse, jail, historical museum, aquarium, county free library building, branch library building, art gallery, art institute, exposition building, stadium, coliseum, sports arena or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles and other public meetings, or other public building or the cost of any painting, or repairs thereto exceeds the sum of four thousand dollars ($4,000), inclusive of the estimated costs of materials or supplies to be furnished pursuant to Section 20131, the work shall be done by contract. Any such contract not let pursuant to this article is void.

20122. In counties containing a population of 500,000 or over, the work referred to in Section 20121 need not be done by contract if the estimated cost thereof is less than six thousand five hundred dollars ($6,500), exclusive of the estimated cost of materials or supplies to be furnished pursuant to Section 20133.

20123. In counties containing a population of 2,000,000 or over, the provisions of Sections 20121 and 20122 do not apply to alteration or repair work upon county-owned buildings, if the cost of such work is under fifty thousand dollars ($50,000), and if before the work is authorized the board of supervisors determines that detailed plans for the existing building are obsolete or do not exist and that because

of the age or condition of the building it is impracticable to have detailed plans and specifications prepared for the proposed work.

20123.5. In any county, it is unlawful to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this article requiring public work to be done by contract after competitive bidding. Every person who willfully violates the provisions of this section is guilty of a misdemeanor.

20124. The board of supervisors shall adopt plans, specifications, strain sheets, and working details for the work.

20125. The board shall cause an advertisement for bids for the performance of the work to be published pursuant to Section 6062 of the Government Code in a daily newspaper, or pursuant to Section 6066 of the Government Code in a weekly newspaper, of general circulation published in the county. If there is no such newspaper published in the county, the notice shall be given by posting in three public places for at least two weeks.

20126. Any notice inviting bids which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed construction project which would be subject to Section 1601 or Section 1603 of the Fish and Game Code shall include any conditions or modifications established pursuant to Section 1601 of the Fish and Game Code.

20127. All bidders shall be afforded opportunity to examine the plans, specifications, strain sheets, and working details.

20128. The board shall award the contract to the lowest responsible bidder, and the person to whom the contract is awarded shall perform the work in accordance with the plans, specifications, strain sheets, and working details, unless the contract is modified by a four-fifths vote of the board.

20129. The person to whom the contract is awarded shall execute a bond to be approved by the board for the faithful performance of the contract.

20130. If the board of supervisors is advised by the county surveyor or engineer that any wharf, chute, or other shipping facility can be constructed or repaired for a sum less than the lowest responsible bid, it may reject all bids and order the work done by day's work under the supervision and direction of the surveyor or engineer.

20131. In counties employing a purchasing agent, furnishings, materials, supplies and employment of independent contractors used in the construction or repair of any of the works mentioned in Section 20121 costing not more than six thousand five hundred dollars ($6,500) in total may be purchased by the purchasing agent in accordance with Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code without the formality of obtaining bids, letting contracts, preparing specifications, and the other things required by this article and Article 7 (commencing with Section 25500) of Chapter 5 of Division

2 of Title 3 of the Government Code for purchases or contracts costing more than six thousand five hundred dollars ($6,500).

In counties employing purchasing agents, purchases or contracts for medical or surgical equipment or supplies, or for professional services, for a county hospital may be made without competitive bidding, so long as an appropriation for the costs of such purchases or contracts is included in the county budget.

As used in this section, "medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician and surgeon in caring for or treating a patient in a hospital.

20132. The board of supervisors of any county may delegate to the county administrative officer or the county executive officer in an equivalent position, the power to enter into and execute on behalf of the county any contracts, which do not involve the expenditure of more than five thousand dollars ($5,000), which relate to purposes previously approved and budgeted by the board of supervisors, subject to ratification of such approval and execution by the board of supervisors. This section shall not apply to:

(a) Matters within the purview of Section 20131.

(b) Contracts for the construction of public improvements.

(c) Contracts which must be awarded after public notice and competitive bidding.

20133. In counties containing a population of 500,000 or over and employing a purchasing agent, furnishings, materials and supplies to be used in the construction or repair of any of the works mentioned in Section 20121 and estimated as costing not more than three thousand five hundred dollars ($3,500) may be purchased by the purchasing agent in accordance with Article 7 (commencing with Section 25500) of Chapter 5 of Division 2 of Title 3 of the Government Code without the formality of obtaining bids, letting contracts, preparing specifications, or the other things required by this article, and the estimated cost thereof shall not be considered or included in the estimate of the cost of construction for the purposes of Sections 20121 and 20122.

20134. In cases of great emergency, including, but not limited to, states of emergency described in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of county operations or services, or to avoid danger to life or property, the board of supervisors, by majority consent, may proceed at once to replace or repair any and all structures without adopting the plans, specifications, strain sheets, or working details or giving notice for bids to let contract. The work may be done by day labor under the direction of the board, by contract, or by a combination of the two. If the work is done wholly or in part by contract, the contractor shall be paid the actual cost of the use of machinery and tools and of material, and labor and compensation insurance expended by him or her in doing the work, plus not more than 15 percent to cover all profits and administration.

No more than the lowest current market prices shall be paid for materials whenever possible. The board may waive the requirements of Section 4200 of the Government Code for work performed pursuant to this section.

20135. The plans and specifications adopted by the board for the erection, alteration, construction, or repair of any public building or other public structure shall not be altered or changed in any manner which increases its cost, except by a vote of two-thirds of the members of the board of supervisors.

20136. Whenever the board enters into a contract for the erection, construction, alteration, or repair of any public building or other structure, the contract shall not be altered or changed in any manner, except:

(a) As provided in Section 20142.

(b) As provided for in the contract itself, or specifications.

(c) By order adopted by a vote of two-thirds of the board, and the consent of the contractor.

20137. If any change or alteration of the contract is ordered, it shall be specified in writing by a duly authorized officer of the county. The cost of such change or alteration must be agreed upon between the board and the contractor unless the contract includes a provision to determine a fair and equitable price for the change or alteration. Such a provision may provide for any method of determining the price common in commercial transactions, including, but not limited to, arbitration or cost plus a fixed fee. If the cost so agreed upon:

(a) Does not exceed the amounts specified in Sections 20121 and 21031, or

(b) Does not exceed 10 percent of the original contract price, the board may authorize the contractor to proceed with the change or alteration without the formality of obtaining bids therefor.

No change or alteration shall be authorized the amount of which is within the limitation specified in subdivision (b) and in excess of the limitation specified in subdivision (a) except by four-fifths vote of the board.

20138. If the cost of the work is reduced by reason of any modification of the contract, compensation shall be made to the county therefor.

20139. The board shall not pay or become liable for any extra work done on, or extra material furnished for, any building or structure in the course of performance of a contract let pursuant to this article except in accordance with Section 25142, unless the contract specifically provides for such payment or the contract is changed or modified in the manner provided for in this article.

20140. The method of payment for construction contracts shall be determined by the board, including progress payments for completed portions of the work and for materials delivered on the ground or stored subject to the control of the board and unused.

20141. The provisions of this article shall not apply to the

construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to such camps, ranches, or homes.

20142. The board of supervisors may, by board order, authorize the county engineer, or other county officer, to order changes or additions in the work being performed under construction contracts. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost to the county for any change or addition to the work so ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract which exceeds fifty thousand dollars ($50,000). In no event shall any such change or alteration exceed twenty-five thousand dollars ($25,000).

20143. The board may cause the insertion of provisions in any contract for the erection, construction, alteration, or repair of any public building or structure, or in the specifications therefor, for the performance of such extra work and the furnishing of materials therefor by the contractor as the board, county engineer, or other duly authorized officer requires for the proper completion or construction of the whole work contemplated.

20144. The provisions of this article do not apply to any contract which is entered into between Napa County and the State of California or any agency of the executive department of the State of California, for the alteration or repair of the structure located in Napa County and known as the Old Bale Mill.

20145. In counties containing a population of 6,000,000 or over, the board of supervisors may by ordinance authorize such county officer as is deemed appropriate to take or perform any or all acts or actions permitted or required of the board by this article, including the authority to adopt and advertise plans and specifications, award contracts, approve bonds, or order the change or alteration of contracts, with respect to original contracts which do not exceed the total amount of seventy-five thousand dollars ($75,000), or with respect to changes or alterations to original contracts entered into by the board where the changes or alterations do not exceed 10 percent of the amount of the original contract or seventy-five thousand dollars ($75,000), whichever is less. The aggregate total amount of such changes or alterations to an original contract may not exceed 25 percent of the amount of the original contract. Any authorization pursuant to this section shall include detailed procedures governing the county officer in the exercise of such authority.

Article 4.

20160. The provisions of this article shall apply to contracts awarded by cities subject to Title 4 (commencing with Section 34000) of the Government Code.

20161. As used in this chapter, "public project" means:

(a) A project for the erection, improvement, painting, or repair of public buildings and works.

(b) Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow.

(c) Street or sewer work except maintenance or repair.

(d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

20162. When the expenditure required for a public project exceeds five thousand dollars ($5,000), it shall be contracted for and let to the lowest responsible bidder after notice.

20163. It shall be unlawful to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this article requiring public work to be done by contract after competitive bidding. Every person who willfully violates this provision of this section is guilty of a misdemeanor.

20164. The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the city, or if there is none, it shall be posted in at least three public places in the city that have been designated by ordinance as the places for posting public notices. The notice shall distinctly state the project to be done.

20165. Any notice inviting bids, which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed construction project which would be subject to Section 1601 or Section 1603 of the Fish and Game Code, shall include any conditions or modifications established pursuant to Section 1601 of the Fish and Game Code.

20166. In its discretion, the legislative body may reject any bids presented and readvertise. If two or more bids are the same and the lowest, the legislative body may accept the one it chooses. If no bids are received, the legislative body may have the project done without further complying with this chapter.

20167. After rejecting bids, the legislative body may pass a resolution by a four-fifths vote of its members declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the project done in the manner stated without further complying with this chapter.

20168. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, the

legislative body may pass a resolution by a four-fifths vote of its members declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. Upon adoption of the resolution, it may expend any sum required in the emergency without complying with this chapter.

20169. Annually before the beginning of the fiscal year, in cities where there is more than one newspaper of general circulation printed and published, the legislative body shall publish a notice inviting bids and contract for the publication of legal notices required to be published in such a newspaper. The contract shall include the printing and publishing of all such legal notices during the fiscal year.

If there is only one such newspaper, the legislative body may contract with it without advertising for bids.

20170. All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security:

(a) Cash.

(b) Cashier's check made payable to the city.

(c) A certified check made payable to the city.

(d) A bidder's bond executed by an admitted surety insurer, made payable to the city.

20171. The security shall be in an amount equal to at least 10 percent of the amount bid. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it.

20172. If the successful bidder fails to execute the contract, the amount of the bidder's security shall be forfeited to the city except as hereinafter provided.

20173. The cash or proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of cost, and publication of notice are paid.

20174. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the legislative body awards the contract to the second lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder if cash or a check is used, or to the surety on the bidder's bond if a bond is used.

Article 4.5.

20185. The provisions of this article shall apply to contracts awarded by local agencies for earthquake relief subject to Article 5 (commencing with Section 54125) of Chapter 5 of Part 1 of Division 2 of the Government Code.

20186. Any resolution authorizing bonds may provide that the bonds may recite that it is issued pursuant to this chapter and bonds containing such recital are conclusively deemed valid and issued in conformity with this chapter.

20187. Reference on the face of bonds to the resolution by its date of adoption incorporates the resolution and of this chapter the bonds and their coupons.

20188. Each taker and subsequent holder of the bonds and attached or detached coupons has recourse to all of the provisions of the resolution and of this chapter and is bound by their terms.

Article 5.

20190. The provisions of this article shall apply to contracts subject to the Municipal Utility District Act provided for in Division 6 (commencing with Section 11501) of the Public Utilities Code.

20191. Any district operating utility works may accept, without limitation by any other provisions of this division requiring approval of indebtedness, loans from any person, firm, or corporation for the purpose of financing the construction of office buildings, warehouses, and garages for the district, and the acquisition of sites therefor, with appurtenances necessary or convenient thereto. The evidence of the district's indebtedness shall constitute a negotiable instrument.

As used in this section, "construction" includes the meaning of "reconstruction," "repair," "improve," "remodeling," "rehabilitation," and "completion."

20192. Whenever the cost of construction of any office building, warehouse, or garage of the district constructed under Section 20191 exceeds the sum of two thousand dollars ($2,000), the district shall adopt plans and specifications and working details, as may be proper, and shall advertise for bids for such work in accordance with the plans and specifications so adopted. All bidders shall be afforded an opportunity to examine such plans and specifications and the district shall award the contract to the lowest responsible bidder. The person or corporation to whom the contract is awarded shall be required to execute a bond for the faithful performance of the contract. The form of the bond shall be approved by the board of directors. In cases of great emergency and when necessary to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor, have the work done by day labor.

Article 6.

20200. The provisions of this article shall apply to contracts subject to the Public Utility District Act provided for in Division 7 (commencing with Section 16051) of the Public Utilities Code.

20201. All complete projects for new construction where the costs for materials, supplies, and labor exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder. All alterations, maintenance, and repair projects where materials, supplies and labor exceed three thousand dollars ($3,000) shall be let to the lowest responsible bidder. The board shall adopt plans and specifications,

strain sheets, and working details and shall advertise for bids for such work in accordance with the plans and specifications so adopted. Notice inviting bids for all projects shall be published in a newspaper in the district at least one week prior to the time specified for receiving bids.

Article 7.

20210. The provisions of this article shall apply to contracts by transit districts in the counties of Alameda or Contra Costa, as provided for in Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

20211. The purchase of all supplies, equipment and materials, and the construction of facilities and works, when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

20212. If after rejecting bids the board determines and declares by a four-fifths vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

20213. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a four-fifths vote of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 8.

20220. The provisions of this article shall apply to contracts by the San Francisco Bay Area Rapid Transit District, as provided for in Part 2 (commencing with Section 28500) of Division 10 of the Public Utilities Code.

20221. The purchase of all supplies, equipment and materials, and the construction of facilities and works, when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise in

its discretion.

Where the expenditure required by the bid price is less than twenty-five thousand dollars ($25,000), the general manager may act for the board.

20222. If after rejecting bids the board determines and declares by a two-thirds vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

20223. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a two-thirds vote of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 9.

20230. The provisions of this article shall apply to contracts by the Southern California Rapid Transit District, as provided for in Part 3 (commencing with Section 30000) of Division 10 of the Public Utilities Code.

20231. The purchase of all supplies, equipment, and materials, and the construction of facilities and works, when the expenditure required exceeds twenty-five thousand dollars ($25,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. When the expected procurement required exceeds one thousand dollars ($1,000), the board shall seek a minimum of three quotations, either written or oral, which permit prices and other terms to be compared. The board may reject any and all bids and readvertise in its discretion.

20232. If, after rejecting bids, the board determines and declares by a vote of two-thirds of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

20233. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a vote of two-thirds of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, and thereupon proceed to expend or enter

into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 10.

20240. The provisions of this article shall apply to contracts by the Orange County Transit District, as provided for in Part 4 (commencing with Section 40000) of Division 10 of the Public Utilities Code.

20241. The purchase of all services, supplies, equipment, and materials, and construction of facilities and works, shall be done in the same manner, procedure and subject to the same limitations applicable to the County of Orange by the state law, now or as may hereafter be amended.

Article 11.

20250. The provisions of this article shall apply to contracts by the Stockton Metropolitan Transit District, as provided for in Part 5 (commencing with Section 50000) of Division 10 of the Public Utilities Code.

20251. The purchase of all supplies, equipment and materials, and construction of facilities and works, when the expenditure required exceeds three thousand dollars ($3,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

20252. If after rejecting bids the board determines and declares by a four-fifths vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids or notice.

20253. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a four-fifths vote of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 12.

20260. The provisions of this article shall apply to contracts by the Marin County Transit District, as provided for in Part 7 (commencing with Section 70000) of Division 10 of the Public Utilities Code.

20261. The purchase of all supplies, equipment and materials, and construction of facilities and works, shall be done in the same manner, procedure and subject to the same limitations applicable to the County of Marin by state law and by county ordinance, and as the same may hereafter be amended.

Article 13.

20270. The provisions of this article shall apply to contracts by the San Diego County Transit District, as provided for in Part 8 (commencing with Section 90000) of Division 10 of the Public Utilities Code.

20271. The purchase of all supplies, equipment and materials, and the construction of facilities and works, when the expenditure required exceeds five thousand dollars ($5,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

20272. If after rejecting bids the board determines and declares by a two-thirds vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

20273. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a two-thirds vote of all its members declare and determine that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expand or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 14.

20280. The provisions of this article shall apply to contracts by the Santa Barbara Metropolitan Transit District, as provided for in Part 9 (commencing with Section 95000) of Division 10 of the Public Utilities Code.

20281. The purchase of all supplies, equipment and materials, and

construction of facilities and works, when the expenditure required exceeds three thousand dollars ($3,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

20282. If after rejecting bids the board determines and declares by a four-fifths vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids or notice.

20283. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a four-fifths vote of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 15.

20290. The provisions of this article shall apply to contracts by the Santa Cruz Metropolitan Transit District, as provided for in Part 10 (commencing with Section 98000) of Division 10 of the Public Utilities Code.

20291. The purchase of all supplies, equipment and materials, and construction of facilities and works, when the expenditure required exceeds three thousand dollars ($3,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

20292. If after rejecting bids the board determines and declares a four-fifths vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids or notice.

20293. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a majority vote of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property and thereupon proceed to expend or enter into a contract

involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 16.

20300. The provisions of this article shall apply to contracts by the Santa Clara County Transit District, as provided for in Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code.

20301. Contracts for the construction of transit works or transit facilities shall be subject to the same limitations as are applicable to construction contracts of the County of Santa Clara.

Article 17.

20310. The provisions of this article shall apply to contracts by the Greater Bakersfield Metropolitan Transit District, as provided for in Part 13 (commencing with Section 101000) of the Public Utilities Code.

20311. The purchase of all supplies, equipment, and materials, and the construction of facilities and works, when the expenditure required exceeds ten thousand dollars ($10,000), or the purchase of fuels exceeding fifteen thousand dollars ($15,000) in any one month, shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

When the expected procurement required exceeds one thousand dollars ($1,000), the board shall seek a minimum of three quotations, either written or oral, which permit prices and other terms to be compared.

20312. If, after rejecting bids, the board determines and declares by a four-fifths vote of all its members that, in its opinion, the supplies, equipment, and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment, and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

20313. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a four-fifths vote of all its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend, or enter into a contract involving the expenditure of, any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 18.

20320. The provisions of this article shall apply to contracts by the Sacramento Regional Transit District, as provided for in Part 14 (commencing with Section 102000) of Division 10 of the Public Utilities Code.

20321. Contracts for the construction of transit works or transit facilities in excess of five thousand dollars ($5,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by four-fifths vote of the board of the district.

Article 19.

20330. The provisions of this article shall apply to contracts by the San Mateo County Transit District, as provided for in Part 15 (commencing with Section 103000) of Division 10 of the Public Utilities Code.

20331. Contracts for the construction of transit works or transit facilities in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by the vote of seven members of the board.

Article 20.

20340. The provisions of this article shall apply to contracts by Transit Development Boards, as provided for in Division 11 (commencing with Section 120000) of the Public Utilities Code.

20341. Contracts for the construction in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board.

Article 21.

20350. The provisions of this article shall apply to contracts by the North San Diego County Transit Development Board, as provided for in Division 11.5 (commencing with Section 125000) of the Public Utilities Code.

20351. Contracts for the construction in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board.

Article 22.

20360. The provisions of this article shall apply to contracts by the Los Angeles County Transportation Commission, as provided for in Division 12 (commencing with Section 130000) of the Public Utilities Code.

20361. (a) If the Los Angeles County Transportation Commission is authorized to impose a transactions and use tax within the County of Los Angeles, the commission shall have such authority and power vested in the Southern California Rapid Transit District to plan, design, and construct an exclusive public mass transit guideway system in the county.

(b) In such a case, the commission shall conform to the State Contract Act (Chapter 1 (commencing with Section 10100) of Division 2 of this code) in letting contracts for such construction.

Article 23.

20370. The provisions of this article shall apply to contracts by the Fresno Metropolitan Transit District, as provided for in Chapter 1932 of the Statutes of 1961.

20371. The purchase of all supplies, equipment and materials, and the construction of facilities and works, when the expenditure required exceeds three thousand dollars ($3,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

20372. If after rejecting bids the board determines and declares by a four-fifths vote of all its members that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the board may proceed to purchase the supplies, equipment and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

20373. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, the board may, by resolution passed by a four-fifths vote of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in such emergency without observance of the provisions requiring contracts, bids, or notice.

Article 24.

20380. The provisions of this article shall apply to contracts by the West Bay Rapid Transit Authority, as provided for in Chapter 104 of the Statutes of 1964, First Extraordinary Session.

20381. The authority may construct the system or any part thereof and acquire all property necessary therefor on such terms and conditions as it deems advisable. The authority, without awarding a contract for the construction of the system or any part thereof, may do the work directly and may purchase materials, hire

labor and do all other things necessary for the doing of the work. When any part of the work is to be done or performed by any public body or by the United States jointly or in conjunction with the authority, the portion of the cost thereof to be borne by the authority may be turned over to the government of the United States or to any other public body to be expended by it in the acquisition, construction or completion of the system or any part thereof. Construction contracts entered into by the authority shall not be subject to the provisions of the State Contract Act and shall be governed solely by the provisions of this act, except that the provisions of Chapter 3 (commencing at Section 4200), Division 5 of Title 1 of the Government Code are hereby expressly made applicable to the system or any part thereof under this act. Any such contracts may be entered into in such manner and upon such terms as the authority deems advisable.

Article 25.

20390. The provisions of this article shall apply to contracts by boards of supervisors for the construction, repair, or maintenance of a county highway, as provided for in Chapter 4 (commencing with Section 1070) of Division 2 of the Streets and Highways Code.

20391. Whenever the board of supervisors finds that the estimated expense of any necessary work upon any county highway exceeds the sum of twenty thousand dollars ($20,000), the board shall order definite surveys of the proposed work to be made and shall direct the preparation of profiles, cross sections, plans, and specifications.

20392. Upon receipt of such profiles, cross sections, plans, and specifications, the board shall publish a notice calling for sealed bids for the performance of the work specified. The notice shall refer to said profiles, cross sections, plans, and specifications, and shall set a time at which bids will be opened. The board shall cause this notice to be published for at least 10 consecutive times, prior to the date set for opening bids, in a daily newspaper of general circulation printed and published in the county and designated by the board, or for at least two consecutive times prior to such date in a weekly newspaper printed and published in the county and designated by the board.

20393. At the time specified in the notice, the board shall publicly open all bids received and shall award the contract for the work to the lowest responsible bidder, unless the board finds that the bids are too high, and that the work can be done more cheaply by day labor. In such case, the board shall reject the bids and order the work to be done by the road commissioners in whose districts the work is situated. In any case, the board may reject all bids and advertise for new bids in the manner specified in this article. The board may provide, by resolution, that the bids be opened, examined, and declared by an officer designated in the resolution. Any such resolution shall require that the bids be opened at a public meeting

called by the officer and that the results of the bidding be reported to the board at a subsequent regular board meeting. The notice inviting bids shall state the time and place of the public meeting and the name of the designated officer.

20394. Whenever the board finds that the estimated expense of any work to be done upon any county highway is twenty-five thousand dollars ($25,000) or less, the board or the purchasing agent may let a contract covering both work and material, or purchase the material and let a contract for doing the work, or purchase the materials and do the work by day labor, without calling for bids.

20395. In any county which has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, the board may authorize such road commissioner to have any work upon county highways done under his or her supervision and direction. Such work may be done:

(a) By letting a contract covering both work and material. In such event the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In such event the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) By authorizing the county road commissioner to execute changes for any such contract in an amount not to exceed five thousand dollars ($5,000) for contracts of fifty thousand dollars ($50,000) or less, or 10 percent for contracts over fifty thousand dollars ($50,000), but in no event to exceed a net total addition of twenty-five thousand dollars ($25,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars ($25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

20396. Notwithstanding any other provision of law, in any county employing a competent engineer as road commissioner, the board of supervisors may elect to perform work or projects or let contracts for the performance of work or projects under the provisions of the State Contract Act pursuant to Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code; and when such election is made, references in said act to state shall mean county, and references to any state agency shall mean county board of supervisors, or such county agency as the board of supervisors may designate, and the provisions of said act shall be fully applicable to work or projects so to be performed by the county.

20397. In counties containing a population of two million or over

and employing a registered engineer as road commissioner, the board of supervisors may authorize the moving, relocation, or reestablishment of detention camps by force account or day labor where such camps are used in connection with county highway construction or maintenance work, if the board determines that such work of moving, relocation, or reestablishment can be done more economically and satisfactorily by force account or day labor than by contract, and that the total estimated cost of new or additional building structural materials necessary to be purchased in order to perform such work does not exceed five thousand dollars ($5,000).

20398. The board shall cause the highway work, provided for in this article, to be done in accordance with the provisions of Sections 20391 to 20395, inclusive, except that the notice calling for bids shall be published in a newspaper published in the division if there is such a newspaper. The successful bidder shall give a bond in such sum as the board requires, conditioned on the faithful performance of the contract, and on the payment of all labor employed and material used in the work. The bondsmen shall be jointly and severally liable for the payment of all such labor employed and material used.

Article 26.

20400. The provisions of this article shall apply to contracts by boards of supervisors for the construction, maintenance and repair of a county bridge or subway, as provided for in Chapter 5 (commencing with Section 1300) of Division 2 of the Streets and Highways Code.

20401. The boards of supervisors, in their respective counties, may construct, operate, manage or maintain summer bridges under such rules and regulations and at such times and places as they consider necessary. The boards shall cause any expenditure with regard to such bridges to be paid out of the county general fund.

20402. Except as provided in Sections 20406 to 20408, inclusive, whenever the cost of construction or repair of any bridge will exceed the sum of two thousand dollars ($2,000), such construction or repair shall be done by contract.

20403. Whenever the board of supervisors finds that the estimated expense of any work to be done on any county bridge is ten thousand dollars ($10,000) or less, the board or the purchasing agent may let a contract covering both work and material, or purchase the materials and let a contract for doing the work, without calling for bids.

20404. The board of supervisors shall adopt plans, specifications, and working details for such construction or repair and shall cause a notice, calling for bids therefor, to be published in a newspaper of general circulation published in the county. Such notice shall be published for at least 10 consecutive times in a daily newspaper of general circulation published in the county or for at least two consecutive times in a weekly newspaper published in the county. If

there is no newspaper published in the county, such notice shall be given by posting in three public places in the county for at least two weeks.

20405. The board shall afford all bidders an opportunity to examine such plans, specifications, and working details, and shall award the contract to the lowest responsible bidder. The board may provide by resolution that the bids be opened, examined, and declared by an officer designated in the resolution. Any such resolution shall require that the bids be opened at a public meeting called by the officer and that the results of the bidding be reported to the board at a subsequent regular board meeting. The notice inviting bids shall state the time and place of the public meeting and the name of the designated officer. The person to whom the contract is awarded shall execute a bond, approved by the board for the faithful performance of the contract. Such person shall perform the work in accordance with the plans, specifications, and working details, unless all or any of them are modified by a four-fifths vote of the members of the board. In every such case if the cost of the work is reduced by reason of the modification, the person to whom the contract is awarded shall make an allowance on the contract price to the extent of such reduction.

20406. If the board of supervisors is advised by the county surveyor or, in a county not having a county surveyor, by the officer having similar duties and authority, that the work can be done for a sum less than the lowest responsible bid, the board may reject all bids and order the work done by day labor, under the supervision and direction of the county surveyor or officer having similar duties and authority. In such case, the road commissioners in their respective districts shall employ all labor required, and direct the conduct of the work.

20407. In the event of great emergency, including, but not limited to, states of disaster defined in Section 1505 of the Military and Veterans Code, upon the majority vote of the board, the board may proceed at once to replace or repair any and all bridges without adopting plans, specifications, strain sheets or working details, without letting contracts or without calling for bids. Such work may be done by day labor under the direction of the board, or by contract, or by a combination of the two. If done wholly or in part by contract, the contractor shall be paid the actual cost of use of machinery and tools and of material and labor expended by him in doing the work, plus not more than 15 percent to cover all profits, supervision, and any other expense. No more than the lowest current market prices shall be paid for materials.

20408. Whenever any county has appointed a road commissioner for all road districts in the county as authorized by Section 2006 of the Streets and Highways Code, or whenever any county has adopted a county charter pursuant to Section 4 of Article XI of the Constitution, providing for the appointment of a road commissioner as a county officer, and for the organization of a permanent road department for

the construction, improvement, and maintenance of highways and bridges, such road commissioner shall have charge of the construction and maintenance of all county bridges in the county, under the order and direction of the board of supervisors as provided in Section 1332 of the Streets and Highways Code.

20409. The board of supervisors may authorize such road commissioner to employ such workmen and purchase such materials, equipment, tools, and appliances and cause such work to be done as is necessary to construct or maintain such bridges and to keep them in repair without adopting plans and specifications, or working details and without advertising for bids as required in Sections 20402, 20403, and 20404. The cost of such construction, maintenance or repair shall be paid out of the county road funds or out of the county general fund.

Article 27.

20410. The provisions of this article shall apply to contracts by legislative bodies for the doing of work or the furnishing of materials, supplies and equipment, as provided for in the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code.

20411. Before the legislative body awards any contract for doing any work or for furnishing materials, supplies and equipment or any portion thereof, authorized by this division, the legislative body shall pass a resolution ordering the work.

20412. Notice shall be posted inviting sealed proposals or bids for doing such work, or for furnishing materials, supplies and equipment or any portion thereof. Notice inviting such proposals, and referring to the specifications on file, shall be published, but if there is no newspaper published in the city, then it shall only be posted. The time fixed for the opening of the bids shall be not less than 10 days from the time of the first publication or posting of the notice.

Said notices shall state the estimated cost of any acquisition, which estimated cost is required to be advanced as a part of the incidental expenses referred to in Section 5256 of the Streets and Highways Code, at the time of entering into the contract.

20413. All proposals or bids offered shall be accompanied by cash, a cashier's check or a certified check payable to the city, for an amount which shall not be less than 10 percent of the aggregate of the proposal, or by a bond for that amount and so payable, signed by the bidder and two sureties, who shall justify, before any officer competent to administer an oath, in double that amount, and over and above all statutory exemptions, or by a corporate surety bond to the satisfaction and approval of the superintendent of streets.

20414. The proposals or bids shall be delivered to the clerk, or any other officer designated by the legislative body, and the legislative body shall, in open session publicly open, examine and declare the same. If the legislative body by resolution so provides the proposals

or bids may be opened, examined and declared by an officer designated in the resolution. Any such resolution shall require that the proposals or bids be opened at a public meeting called by the officer designated who shall report the results of the bidding to the legislative body at the next regular meeting after the opening of the bids. In the event of such resolution the notice inviting bids shall state the time and place of said public meeting and the officer so designated. No proposal or bid shall be considered unless accompanied by the check or bond satisfactory to the legislative body.

20415. The legislative body may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent or unfaithful in any former contract with the city, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid. If the bids are rejected the legislative body shall thereupon return to each bidder the check or bond which accompanied his bid.

20416. Whenever the total amount bid by the lowest responsible bidder plus the estimated amount of incidental costs would result in assessments under this division which exceed by more than 15 percent the engineer's estimate of cost of the proposed work to be assessed, as stated in the "Notice of Improvement" referred to in Section 5193 of the Streets and Highways Code, the legislative body shall direct the clerk to give notice by mail of such increase over the estimated cost.

20417. If the bids are rejected or no bids are received the legislative body may readvertise for proposals or bids for the performance of the work as in the first instance, without further proceedings, and thereafter proceed in the manner provided in this chapter.

20418. The check or bond accompanying any proposal or bid which is accepted shall be held by the clerk until the contract for doing the work has been entered into, either by the lowest bidder or by the owners of three-fourths part of the frontage, whereupon the certified check or bond shall be returned to the bidder. If the bidder fails, neglects or refuses to enter into the contract to perform the work, the certified check accompanying his bid and the amount therein mentioned, shall be declared to be forfeited to the city and shall be collected by it and paid into the general fund, and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into the general fund.

20419. If any local, state or national agency or authority contributes the labor, or labor and any portion of the materials, supplies or equipment necessary for the construction of any improvement authorized under this division, the contract shall be for only those items which are not contributed by any such agency or authority. If proposals or bids are invited only for the furnishing of

materials, supplies and equipment or any portion thereof not furnished by such agency or authority, the notice shall contain a statement to the effect that the legislative body may cancel the order for any undelivered materials, supplies or equipment by giving the successful bidder 24 hours notice of the cancellation, in which event the successful bidder will be entitled to compensation for only so much of the material, supplies and equipment as has been used prior to the giving of such notice of cancellation at the prescribed unit rates stated in the contract, and that the contractor shall agree to accept the return of any and all materials and supplies not used prior to the giving of such notice.

20420. Notice of the award of the contract shall be published by the clerk.

The clerk shall, upon payment of the statutory fee prescribed therefor, record a notice of the award of contract in the office of the county recorder. Said recordation shall constitute notice to all persons that all property within the boundaries of the proposed assessment district shall be assessed at the time of the confirmation of the assessment under Chapter 16 (commencing at Section 5360) of Part 3 of Division 7 of the Streets and Highways Code to pay the costs of the improvement in proportion to the benefits which the property receives from the improvement, notwithstanding the acquisition of the property by the state or any of its agencies, or by any county, city, municipality or other public or municipal corporation. Said notice shall be substantially as follows:

NOTICE OF AWARD OF CONTRACT IN PROPOSED ASSESSMENT DISTRICT

Pursuant to the requirements of Section 5248 of the Streets and Highways Code, notice is hereby given that a contract has been awarded by _____ to
(Legislative body)

_____
(Contractor)

for _____
(Nature of improvement)

in _____ District
(Improvement or assessment)

No. _____ and relating to the following described real property:

(The real property in the assessment district may be described by:

a. Stating its exterior boundaries; or

b. Giving a description thereof according to any official or recorded map; or

c. Referring to a plat or map filed with the clerk of the legislative body, which shall indicate by a boundary line the extent of the territory included in the assessment district, and shall govern for all details as to the extent of the assessment district.)

This shall constitute notice to all persons that all property within

the boundaries of the proposed assessment district shall be assessed at the time of the confirmation of the assessment under Chapter 16 (commencing at Section 5360) of Part 3 of Division 7 of the Streets and Highways Code to pay the costs of the improvement in proportion to the benefits which said property receives from the improvement, notwithstanding the acquisition of any such property by the state or any of its agencies, or by any county, city, municipality or other public or municipal corporation.

Reference is made to the minutes of the action taken by on file
(Legislative body)
in my office for full particulars.

Dated:_____

_____

(Clerk of _____)

20421. The owners of three-fourths of the area of lands liable to be assessed, or their agents (who shall make oath that they are such owners or agents) shall not be required to present sealed proposals or bids, but may within 10 days after the first publication, or first posting if there is no publication, of the notice of the award of the contract, elect to take the work and enter into a written contract to do the whole work at the price at which the same has been awarded, and all work done under such contract shall be subject to such regulations as may be prescribed by ordinance of the legislative body.

20422. If the owners fail to elect to take the work, and to enter into a written contract therefor within 10 days, or to commence the work within 15 days after the date of the written contract, and to prosecute the same with diligence to completion, the superintendent of streets shall enter into a contract with the original bidder to whom the contract was awarded, and at the prices specified in his bid.

20423. If the original bidder neglects, fails or refuses, for 25 days after the first publication of the notice of the award of the contract, to enter into the contract, the legislative body, without further proceedings, shall again advertise for and receive proposals or bids, as in the first instance, and award the contract for the work to the then lowest regular bidder.

20424. If no bids are received in response to this second call for bids, the legislative body may again advertise for and receive bids under the same proceedings at any time and let the contract to the then lowest bidder, and such delay shall in no way affect the validity of any of the proceedings or assessments levied thereunder.

20425. The bids of all persons and the election of all owners who have previously failed to enter into the contract shall be rejected in any bidding or election subsequent to the first for the same work.

20426. All contractors, contracting owners included, shall, at the time of executing any contract for the work, execute either a

corporate surety bond or a bond to the satisfaction and approval of the superintendent of streets, with two or more individual sureties and payable to the city, in a sum not less than 25 percent of the amount of the contract, conditioned upon the faithful performance of the contract; and the sureties shall justify before any person competent to administer an oath, in double the amount mentioned in the bond, over and above all statutory exemptions.

20427. At any time prior to publication and posting notice inviting bids, the legislative body by resolution, may determine that in the event that the contractor, contracting owners included, does not complete the work within the time limit specified in the contract or within such further time as the legislative body shall have authorized, the contractor or contracting owners, as the case may be, shall pay to the city liquidated damages in the amount fixed by the legislative body in said resolution. The amount so fixed is valid as liquidated damages unless manifestly unreasonable under the circumstances existing at the time the contract was made. If such determination is made, the plans or specifications and the contract shall contain provisions in accordance therewith.

Any moneys received by the city on account of such liquidated damages shall be applied as follows:

(1) If received prior to confirmation of the assessment, such moneys shall be applied as a contribution against the assessment.

(2) If received after the confirmation of the assessment, such moneys shall be applied in the manner provided in Section 5132.1 of the Streets and Highways Code for the disposition of excess acquisition funds.

(3) If a contribution has theretofore been made or ordered by any agency, the legislative body may order a refund to the contributing agency in the proportion which said contribution bears to the total costs and expenses of the work.

20428. If the owner or contractor who may have taken any contract does not complete the work within the time limited in the contract, or within such further time as the legislative body may give him, or abandons or fails to proceed with the work, the legislative body may declare him in default and may either relet all or any portion of the work, or it may complete the work by direct purchase of labor and materials, and the owner or contractor shall pay to the city the entire cost of completing the work before the warrant is delivered to the owner or contractor.

Notice of the declaration of default shall be given by the clerk of the legislative body to the owner or contractor by personal service or by mail. Upon receipt of such notice, the owner or contractor shall forthwith quit the work, and shall receive no payment for any work performed thereafter, unless ordered by the legislative body to resume the work.

20429. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, for payment

by him, the cost of publication of the notices, resolutions, orders and matters required under the proceedings prescribed in this division, and of such other notice as may be deemed requisite by the legislative body, together with all other incidental expenses incurred up to the time of entering into the contract, including the estimated cost of any acquisition which the legislative body may determine to be payable at said time, but limited to the amount specified in the notice inviting bids pursuant to Section 5241 of the Streets and Highways Code. All other acquisition costs shall be payable at the time of the delivery to the contractor, or his agent, or assigns, of the warrant, assessment and diagram as provided in Section 5375 of the Streets and Highways Code. The legislative body may waive the payment in advance of all or any part of the incidental expenses and acquisition costs by resolution adopted not later than the time of ordering the work. The waiver must appear in the notice inviting bids.

20430. If the work is abandoned by the city before work is actually started or before any materials, supplies or equipment have been furnished or used, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury, but such expense for which the city is liable and which shall have been paid by it may be charged as incidental expenses against the district benefited in any new proceeding had or taken for any work which includes substantially the same work as that which was included in the abandoned proceedings.

20431. At any time within 10 days from the date of the first publication of the notice of award of the contract, any owner of, or other persons having any interest in, any lot or land liable to assessment, who claims that any of the previous acts or proceedings relating to the work are irregular, defective, erroneous or faulty, may file with the clerk a written notice specifying in what respect the said acts and proceedings are irregular, defective, erroneous or faulty. The notice shall state that it is made pursuant to this section.

20432. All objections to any act or proceeding occurring prior to the time within which such objections are permitted to be filed in relation to the work, not made in writing and in the manner and at the time specified, shall be waived, if the resolution of intention to do the work has been actually published, as provided in this division.

20433. If in the opinion of the legislative body the public interest will not be served by allowing the property owners to take the contract it may so provide in the resolution of intention.

20434. An action to determine the validity of proceedings relating to the work and the validity of any contract entered or to be entered into pursuant thereto may be brought by the legislative body or by the contractor pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. For such purpose proceedings shall be deemed to be in existence upon the award of the contract. An action may be commenced and concluded by the legislative body before the publication of the notice

inviting bids, and for such purpose the proceedings shall be deemed to be in existence upon the adoption of the resolution ordering the work.

20435. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

20436. If an action is commenced under the provisions of this chapter to determine the validity of any contract or proposed contract, and the contract has not been signed, the contractor shall not be obligated to sign the same until a judgment sustaining the validity of the proceedings and the proposed contract has become final. If the contractor has signed and executed the contract, he shall not be obligated to begin work until a judgment sustaining the validity of the proceedings and the contract has become final. If a judgment is entered holding the contract invalid, the contractor shall be discharged and relieved of all obligation under the contract, and he and his sureties shall be discharged and relieved of all obligation upon any bond required by law in connection with such contract.

20436.5. Notwithstanding any other provisions of law, the action authorized by this chapter shall not be brought by any person other than the legislative body or the contractor, nor shall the action be brought after the date fixed for the beginning of work.

20437. The superintendent of streets is hereby authorized in his official capacity to make all written contracts, and to receive all bonds authorized by this division and to do any other act, either expressly or impliedly required by this division, that pertains to the street department.

20438. He shall fix the time for the commencement, which shall not be more than 45 days from the date of the contract, and for the completion of the work under each contract entered into by him. The work shall be prosecuted with diligence from day to day thereafter to completion.

20439. He may extend the time fixed for completion of the work from time to time, under the direction of the legislative body. All applications for extensions of time, if in writing, must be filed in the office of the clerk before the expiration of the original time fixed in the contract, or of the time granted by extension, as the case may be. An extension of time may be granted by the legislative body after the expiration of the time originally fixed in the contract or as previously extended, and the extension so granted shall be deemed to commence and be effective from the date of such expiration. Any extension of time shall not release the sureties upon any bond required under this division.

20440. The work, in all cases, shall be done under the direction and to the satisfaction of the superintendent of streets and the materials used shall comply with the specifications and be to the satisfaction of the superintendent of streets and all contracts made therefor shall contain a provision to that effect unless the legislative body by resolution adopted within 10 days after the passage of the

resolution ordering the work directs that the work shall be done under the direction of the engineer and the materials used shall comply with the specifications and be to the satisfaction of the engineer, instead of the superintendent of streets, and in such case the contract shall contain a provision to that effect.

20441. The legislative body also may by resolution adopted within 10 days after the passage of the resolution ordering the work provide and direct that the assessment thereafter to be made in the proceeding shall be made and signed by the engineer instead of by the superintendent of streets.

20442. The contract shall contain express notice that, in no case, except where it is otherwise provided by law or by charter will the city, or any officer thereof, be liable for any portion of the expense, nor for any delinquency of persons or property assessed.

20443. The legislative body may, by ordinance, prescribe general rules directing the superintendent of streets or the engineer, as the case may be, and the contractor as to the materials to be used, and the mode of executing the work, under all contracts thereafter made. The assessment and apportionment of the expenses of all such work shall be made by the superintendent of streets or the engineer, as the case may be, in the mode provided by this division.

20444. If any fiscal agent of the United States government contributes any money or materials to be used in the construction of any work provided for in this division, the requirements of the agency contributing such money or materials may be incorporated in the contract.

20445. If a contribution of labor or of labor and any portion of materials, supplies or equipment is to be made by any local, state or national agency or authority, the contract shall contain a provision that the legislative body may cancel the order for any undelivered materials, supplies or equipment by giving the contractor 24 hours notice of said cancellation, and require the contractor to accept the return of the unused materials and supplies, in which event the contractor will be entitled to compensation for only so much of the materials, supplies and equipment as has been used prior to the giving of such notice. The contract shall also contain a provision that no materials, supplies or equipment shall be delivered until a delivery permit signed by the superintendent of streets has been received by the contractor.

20446. "Changes" as used in this chapter shall include corrections, alterations, modifications, additions, omissions, increases or decreases.

20447. Unless the power to proceed shall have ceased at the conclusion of the hearing on the resolution of intention because of a majority protest, at any time before the confirmation of the assessment the legislative body may make changes in, to or from the boundaries of the proposed assessment district, the work proposed to be done, or any act, determination or provision made, or permitted to be made, by the legislative body under and pursuant to this

division, which act, determination or provision does not affect the jurisdiction of the legislative body to order the work or improvement; provided, that after the award of the contract no such changes shall be made without the written consent of the contractor or the bidder to whom the contract shall have been awarded. The legislative body shall not change the boundaries to include any territory which will not, in its judgment, be benefited by the work.

20448. At the hearing on the resolution of intention, the legislative body, without further notice and hearing, may order any changes, as defined in Sections 5230 and 5231 of the Streets and Highways Code, except changes to include additional territory in the assessment district. Any changes to include additional territory and all changes after the hearing on the resolution of intention shall be ordered only as provided in this chapter.

20449. Before ordering any changes made, the legislative body shall adopt a resolution briefly describing the changes proposed to be made, stating the amount of the estimated increase or decrease in the cost of the work by reason of the proposed changes and giving notice of a time and place when and where any interested person having any objection to the changes proposed to be made may appear before the legislative body and show cause why the changes should not be ordered. The resolution shall also contain the name and telephone number of a local department or agency designated by the legislative body to answer inquiries regarding the hearing proceedings. Such notice shall be omitted if the hearing of objections is not required as provided hereunder. The resolution may describe the changes by referring to maps, plats, plans, profiles, detailed drawings, or specifications on file in the office of the clerk or engineer, which shall indicate the changes proposed to be made and which shall govern for all details thereof. The resolution shall be published pursuant to Section 6061 of the Government Code, at least 10 days prior to the date of the hearing.

The hearing of objections shall not be required if the legislative body, when considering passage of the resolution, finds and determines by a four-fifth's vote of all members thereof, that all of the owners of lots or lands liable to be assessed, or their agents, who shall make oath that they are such agents, have signed and filed a petition waiving the hearing, with the clerk, on or before the fifth day prior to the day that the resolution is considered for passage, declaring that they do not have any objections to the proposed changes and requesting that the hearing of objections shall not be required.

20450. If said resolution proposes to include additional territory in the assessment district, at least 15 days prior to the hearing fixed therein, the clerk shall mail a copy of such resolution to all persons owning real property within said additional territory whose names and addresses appear on the last equalized assessment roll or as known to the clerk. This section shall not apply if the hearing of objections is not required pursuant to Section 5232 of the Streets and

Highways Code.

20451. Written objections to the proposed changes may be filed with the clerk by any interested person at any time not later than the time set for the hearing. The legislative body shall hear and pass upon such objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive. If no written objections to said changes have been delivered to the clerk up to the hour set for hearing thereon, or if said objections have been heard and found by the legislative body to be insufficient or have been overruled or denied, immediately thereupon the legislative body by an affirmative vote of four-fifths of its members shall acquire jurisdiction to order said changes made. If the hearing of objections is not required, pursuant to Section 5232 of the Streets and Highways Code, immediately upon passage of the resolution the legislative body shall acquire jursidiction to order said changes made. The decisions and determinations of the legislative body ordering such changes shall be final and conclusive upon all persons entitled to appeal thereupon to the legislative body.

20452. No changes, except as provided in Section 5234.1 of the Streets and Highways Code, shall be made pursuant to this chapter which will increase the estimated assessable cost by more than 20 percent of the total estimated cost of the work as determined from:

(a) The engineer's estimate, if the change is ordered prior to the award of the contract, or

(b) The successful bid, if the change is ordered after the award of the contract;

provided, that any changes so made shall also be subject to the limitations, if any, contained in any law applicable to the proceedings, which law may impose limitations upon the amount by which the estimated cost of the work or improvement may be increased by reason of such changes.

20453. Changes may exceed the 20-percent limitation in cost when the legislative body orders such changes. That portion of the added cost which exceeds the 20-percent limitation shall be paid by the city.

20454. Any changes made pursuant to this chapter shall not release or discharge the sureties upon any bond required under this division.

20455. After construction has begun, the legislative body, or the superintendent of streets if authorized by the legislative body, may order changes in the work without the necessity of a hearing. The order shall be in writing, and the amount of any change ordered shall not exceed one thousand dollars ($1,000) when the total amount of the original contract does not exceed twenty thousand dollars ($20,000), nor 5 percent of the amount of any original contract which exceeds twenty thousand dollars ($20,000). No change shall exceed ten thousand dollars ($10,000). The limitations on the cost of changes permitted by this section shall not apply where (1) the change is

requested in writing by the owner of property subject to assessment for the improvement under construction and the nature of the change requested is such that the cost thereof will be assessed exclusively against the property of the person requesting the change, or (2) the change in the work will not adversely affect the benefiting property and any increase in the cost resulting from such changes will be paid by the city and will not be assessed against the property within the assessment district.

20456. Subject to the limitations of Section 5236 of the Streets and Highways Code, the contract may include a provision to determine a fair and equitable price for changes in the work including, but not limited to, arbitration or cost plus a fixed fee.

20457. Every contractor, to whom is awarded any contract for street work under this division, shall at the time of signing and executing the contract, file with the superintendent of streets a good and sufficient bond, approved by the street superintendent in a sum not less than one-half of the total amount payable by the terms of the contract.

20458. The bond shall be executed either by two or more good and sufficient sureties who have each qualified before an officer competent to administer an oath, in an amount not less than the sum specified in the bond and over and above all statutory exemptions, or by one or more duly authorized corporate sureties, and must provide that if the contractor, or his subcontractor fails to pay for any materials, provisions, provender, or other supplies or use of implements or machinery used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in the bond.

20459. Any person furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person renting or hiring teams or implements, or machinery for, or contributing to, the work to be done, or any person who performs work or labor upon the same, or any person who supplies both work and materials and whose claim has not been paid by the contractor or by the subcontractors of the contractor may, at any time within 30 days from the date of the recordation of the assessment file with the superintendent of streets a verified statement of his claim, together with a statement that the same, or some part thereof, has not been paid.

20460. Each person whose claim has not been paid by the contractor or his subcontractors, shall have a first lien upon and against the assessment, any partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment, which lien may be enforced by action brought within three months after the date of the filing of the verified statement in the superior court of the county in which such work is done.

20461. No assignment by the contractor of the whole or any part

of the money, assessment, partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment, due him or to be due him under the contract, or for "extras" in connection therewith, whether made before or after a verified claim is filed pursuant to this chapter, shall take priority over such claims, and such assignment shall have no binding force insofar as the rights of the claimants, or their assigns, are concerned. None of the provisions of Title 15 (commencing with Section 3082), Part 4, Division 3, of the Civil Code, shall be applicable to any assessment, partial assessment, reassessment, bonds, moneys or funds payable to the contractor or his assignee under this division or to any matter contained in this chapter.

20462. If any contractor disputes the correctness or validity of any claim filed pursuant to this chapter, the city or superintendent of streets may permit the contractor to deliver to the city or superintendent of streets a bond satisfactory to said city or superintendent of streets executed by the contractor and some corporation authorized to issue surety bonds in a penal sum equal to one and one-fourth times the amount of the claim.

20463. The bond shall guarantee the payment of any sum which the claimant may recover on the claim together with his costs of suit in the action, if he shall recover therein. If such bond is filed, the city, any officer thereof, or superintendent of streets shall not withhold any moneys or funds, assessment, partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment from the contractor on account of the claim. The sureties upon the bond shall be jointly and severally liable to the claimant with the sureties upon the contractor's original labor and material bond posted by the contractor.

20464. Suit against the sureties on the bond of the contractor filed pursuant to this chapter may be brought by any claimant, or his assigns, at any time after the claimant has ceased to perform labor or furnish materials or both and until the expiration of six months after the period in which verified claims may be filed. The filing of a verified claim shall not be a condition precedent to the maintenance of such action against the sureties on the bond and an action on the bond may be maintained separately from and without the filing of an action against the city or officer by whom the contract was awarded. Upon the trial of the action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

Article 28.

20470. The provisions of this article shall apply to contracts by Separation of Grade Districts, as provided for in Part 2 (commencing with Section 8100) of Division 9 of the Streets and Highways Code.

20471. The commission shall, pursuant to an order entered in the minutes, advertise for bids for the construction of the project either

as a whole or in sections, as it may deem fit, in accordance with the plan theretofore adopted and filed, by publishing a notice calling for bids at least once each week for two successive weeks in a newspaper of general circulation published within the district. The notice shall refer to the order and plan for further particulars. If the commission elects to receive separate bids for the construction of sections of the project, the order shall describe the sections for which separate bids are desired. The commission may advertise at the same time and in the same notice both for bids for the construction of the project as a whole and for bids for the construction of separate sections.

20472. Every contract for the construction of the project or for any section, if it is to be constructed in sections, shall be let, after advertisement, to the lowest responsible bidder, or the commission may reject all bids for the construction of the project or for any section, and may readvertise for bids for doing the work in the same manner and for the same length of time as provided for a notice calling for bids for construction.

20473. Before the making of any contract the bidder shall give a bond to the district for the faithful performance of his contract, which shall be signed by the bidder and sureties satisfactory to the commission, in an amount equal to at least 50 percent of the amount of the contract price and shall give another bond conditioned upon the payment of claims for labor and material in connection with the performance of his contract containing the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and subject to the provisions of that chapter.

20474. The contract shall be executed on behalf of the district by the commission, subject to approval or rejection by the electors of the district, expressed at an election called for the purpose of issuing bonds or authorizing the tax levy for the payment of the contract. If the electors fail to approve the bond issue, or fail to authorize the tax levy, the contract shall be null and void without notice and the commission shall immediately return the bonds to the contractor.

20475. The commission may do any or all maintenance or repair work upon the project, either with or without contract, and with or without advertising for bids for contracts, unless the cost of the work exceeds one thousand dollars ($1,000), in which event it shall be done only under contract after advertising for bids in the same manner and for the same length of time as provided for advertising for bids and letting contracts for construction work.

20476. The commission may hire all necessary engineers, inspectors and superintendents to supervise the performance of contracts entered into by the commission, or to have charge of doing all work done without contract.

20477. As to any project involving a state highway where the plans have been approved by the Department of Transportation, Division of Highways, the commission and the department may enter into and carry out contracts pursuant to Section 130 of the Streets and Highways Code.

Article 29.

20480. The provisions of this article shall apply to contracts by cities, cities and counties, or counties, or other entities, public corporations, or agencies authorized to operate under the Municipal Improvement Act of 1913, as provided for in Division 12 (commencing with Section 10000) of the Streets and Highways Code.

20481. At any time after the preliminary approval of the report provided for in Section 10300 of the Streets and Highways Code, the legislative body may let the contract or contracts for all or any part of the improvement and authorize such acts and proceedings as are necessary to acquire works or appliances already installed, or other property, as authorized by this division.

20482. Each contract shall be let to the lowest responsible bidder after notice inviting sealed proposals is published pursuant to Section 6066 of the Government Code in a newspaper published in the municipality, and designated by the legislative body for that purpose, or if there is no such newspaper by such posting as the legislative body may provide. The time fixed for the opening of the bids shall not be less than 14 days after the first publication or posting of the notice.

20483. Each bid shall be accompanied by cash, a cashier's check or a certified check, amounting to 10 percent of the bid, payable to the order of the clerk of the legislative body, or by a bond for that amount and so payable, signed by the bidder and two sureties, who shall justify, before any officer competent to administer an oath, in double that amount, and over and above all statutory exemptions or by a corporate surety bond to the satisfaction and approval of the superintendent of streets. The amount so posted shall be forfeited to the municipality if the bidder does not, within 15 days after written notice that the contract has been awarded to him, enter into a contract with the municipality for the work. The faithful performance of the contract shall be secured by an undertaking in such penal sum as the legislative body requires, but not less than 25 percent of the contract price, with sureties satisfactory to the legislative body. When the proceedings include the acquisition or construction of works, appliances, or improvements to be owned, managed or controlled by a public agency other than the municipality making the acquisitions or ordering the work done, the legislative body of the municipality may require that the undertaking also inure to the benefit of such public agency to the extent of its interest in the entire project. The contractor shall also furnish a labor and material bond as required by law in a sum not less than 50 percent of the contract price.

20484. Notice of award of the contract shall be published by the clerk of the legislative body once in the newspaper in which the notice of improvement was published.

20485. The owners of three-fourths of the area of lands assessed

or liable to be assessed, or their agents (who shall make oath that they are such owners or agents), shall not be required to present sealed proposals or bids, but may, within 10 days after the publication of the notice of the award of the contract, elect to take the work and enter into a written contract to do the whole work at prices not exceeding the prices specified in the bid of the bidder to whom the contract was awarded, and all work done under such contract shall be subject to such regulations as may be prescribed by the legislative body.

20486. If the owners fail to elect to take the work and to enter into a written contract therefor within 10 days, or to commence the work within 15 days after the date of the written contract, and to prosecute the same with diligence to completion, a contract shall be entered into with the original bidder to whom the contract was awarded at the prices specified in his bid.

20487. If, in the opinion of the legislative body, the public interest will not be served by allowing the property owners to take a contract, it may so provide in the resolution of intention. In such event, no notice of award of contract need be published pursuant to Section 10502.1 of the Streets and Highways Code.

20488. The contract shall provide that the work shall be done strictly in accordance with the plans and specifications contained in the report provided for in Sections 10200, 10201, 10202, 10203, 10204, and 10300 of the Streets and Highways Code. The work shall be done under the supervision of the board officer, or person by whom the report was made, and no work or portion of the work shall be paid for until it is approved for payment by that board officer, or person, but this shall not prevent approval of and payment for completed portions of the work as it progresses. Payment made for completed portions of the work shall not constitute final acceptance of these portions or of the completed project.

20489. The provisions of the Improvement Act of 1911 relating to liquidated damages are incorporated in this division.

20490. If the contractor abandons the work, or fails to proceed with the work as rapidly as required by his contract, the legislative body may declare him in default and relet the work in the manner set forth in this chapter for letting the original contract, or it may complete the work by direct purchase of labor and materials, and retain out of any funds due or to become due the contractor the amount of the cost of the work and any expense incidental to reletting the contract or performing the work, and also hold the contractor and his sureties responsible for such cost and expense, and for any damages resulting from the abandonment or failure upon his bond.

Notice of the declaration of default shall be given by the clerk of the legislative body by personal service or by mail. Upon receipt of such notice, the contractor shall forthwith quit the work, and shall receive no payment for any work performed thereafter unless ordered to resume the work by the legislative body.

20491. At any time within 10 days after the award of any contract

pursuant to this chapter, or if no bids are received, at any time within 10 days after the time fixed for the opening of bids by resolution adopted by a vote of two-thirds of all its members, the legislative body may order that the proposed contract be not made, and that the municipality itself execute the work in accordance with the plans and specifications adopted for the work.

20492. If the work is abandoned by the city before work is actually started or before any materials, supplies or equipment have been furnished or used, the incidental expenses incurred previous to such abandonment, unless provision has otherwise been made therefor, shall be paid out of the city treasury, but such expense for which the city is liable and which shall have been paid by it may be charged as incidental expenses against the district benefited in any new proceeding had or taken for any work which includes substantially the same work as that which was included in the abandoned proceedings.

20493. At any time after the preliminary approval of the report provided for in Section 10300, by resolution adopted by a vote of two-thirds of all its members and without calling for bids, the legislative body may order that the municipality itself execute any or all of the improvement in accordance with the specifications and plans adopted for the work.

20494. The legislative body, on ordering the municipality itself to execute the improvement, may authorize the municipality to employ the labor, and provide the material, appliances, supplies, and illuminating agent necessary to carry out the work.

20495. The cost and expenses of work executed by the municipality itself shall be paid out of the improvement fund, but the amount appropriated and used from the fund for this purpose shall not exceed the amount of the bid upon which the award of the contract was made, or if no bids are received or the work is ordered without asking for bids, the cost and expenses shall not exceed the amount of the estimate provided for in subdivision (c) of Section 10204 of the Streets and Highways Code. If the cost and expenses do exceed the amount of the bid, or of the estimate in case no bids are received or the work is ordered without asking for bids, the excess shall be paid from the general fund in the treasury.

20496. The provisions of Title 15 (commencing with Section 3082), Part 4, Division 3, of the Civil Code are hereby expressly made applicable to the construction of works and improvements under this article.

20497. If in the opinion of the legislative body the public interest will not be served by allowing the property owners to take the contract it may so provide in the resolution of intention.

Article 30.

20500. The provisions of this article shall apply to contracts by a city council, as provided in the Street Lighting Act of 1919, Part 1

(commencing with Section 18000) of Division 14 of the Streets and Highways Code.

20501. The city council shall, within 10 days after the establishment of the district, invite bids for the making of the improvement by ordering a notice of such invitation to be published by two successive insertions in a daily or weekly newspaper published or circulated in the city and designated by the city council for that purpose; provided, however, that if the city council determines that there is only one contractor practically capable of serving the street lighting system to be improved in the manner provided in the plans and specifications contained in the report provided for in Chapter 3 of Part 1 of Division 14 of the Streets and Highways Code and that such contractor is subject to the jurisdiction of the Public Utilities Commission of the State of California, the city council may, in its discretion without competitive bidding, order the improvement to be carried out by such contractor in accordance with rates and rules filed by it from time to time with said Public Utilities Commission. Every bid shall be accompanied by a certified check amounting to not less than 10 percent of the bid, payable to the order of the city clerk, and the check shall be forfeited to the city in case the bidder depositing it does not, within 15 days after the notice that the contract has been awarded to him, enter into a contract with the city for making the improvement, the faithful performance of which shall be secured by an undertaking in such penal sums as the city council shall require, with sureties satisfactory to that body. In any case where competitive bidding is required, the contract shall be awarded to the lowest responsible bidder.

20502. The contract shall require that the improvement be made, and the improvement shall be made, strictly in accordance with the plans and specifications contained in the report provided for in Chapter 3 of Part 1 of Division 14 of the Streets and Highways Code.

The contract for service shall be for a period not less than three years from and after the date electric energy and service is first delivered to the lighting district pursuant to such contract and shall be extended automatically thereafter for successive terms of one year each; provided, that the agreement may be terminated by either party upon not less than 60 days' written notice prior to the expiration date of the original term or any extended term; and provided further, that the contract for service may be for a period of less than three years by mutual consent of the city council and the contractor.

20503. The improvement shall be made under the supervision of the board, officer or person designated by the city council, and no portion shall be paid for until it has been accepted by that board, officer or person.

20504. If the contractor abandons the making of the improvement, or fails to proceed with it as rapidly as required by his contract, the city council may relet the contract in the same manner as in the case of the first letting thereof and retain the amount of the

cost of the portion relet, and of any expenses incidental to the reletting, out of any funds due or to become due to the contractor. The city council may also hold the contractor and his sureties responsible upon his bond for such cost and expense, and for any damages resulting from such abandonment or failure.

20505. The city council may, at any time within 20 days after the opening of bids, or, if no bids are received, at any time within 20 days after the time fixed for the opening of bids, order by resolution adopted by a vote of two-thirds of all of its members, that the city itself execute the work of the improvement, or any part thereof, in accordance with the plans and specifications adopted for such work, or for such part thereof, and employ the labor and provide the materials, appliances, supplies or illuminating agent necessary therefor. The cost and expenses of such work, or of such part thereof, shall be paid out of the special fund collected to pay for the improvement. If the city council orders that only a part of the work of the improvement be executed by the city then the city council may reject all bids, if any, received for such part of the work and may proceed with the award of the contract for the remaining part of the work.

20506. If the work of the improvement, or any part thereof, is executed by the city, then the amount appropriated and used from the special fund to pay the costs and expenses of the work or part thereof executed by the city shall not exceed the amount of the respective lowest valid bid received for such work or for such part thereof, or, if no bids have been received and the work of the improvement is executed by the city the amount appropriated and used from the special fund to pay the costs and expenses of such work shall not exceed the amount of the respective estimate thereof provided for in Section 18041 of the Streets and Highways Code. If such costs and expenses exceed the amount of the said bid, or of the said estimate in case no bids are received, then such excess cost and expense shall be paid out of any moneys in the general fund in the city treasury.

20507. At any time after the funds for the proposed improvement, or any part thereof, are in the hands of the city treasurer, the city council may, without calling for bids, order by resolution, adopted by a vote of two-thirds of all its members, that the city itself execute the work of such improvement, or any part thereof, in accordance with the plans and specifications adopted for such work or for such part thereof, and employ the labor, and provide the materials, appliances, supplies or illuminating agent necessary therefor. In such case the costs and expenses of such work, or of such part thereof, shall be paid out of the aforesaid funds, except that if such costs and expenses exceed the amount of the respective estimates provided for in Section 18041 of the Streets and Highways Code, then such excess shall be paid out of the moneys in the general fund in the city treasury.

Article 31.

20510. The provisions of this article shall apply to contracts by a city council, as provided in the Street Lighting Act of 1931, Part 2 (commencing with Section 18300) of Division 14 of the Streets and Highways Code.

20511. At any time after the installment assessment becomes delinquent, the superintendent of streets may call for bids for such improvement and may fix a date, not less than 20 nor more than 30 days after the publication of a notice inviting bids for such improvement, for the receipt of such bids at his office at an hour not later than 10 a.m. on such date. Such notice shall be published once in a daily or weekly newspaper published and circulated in the city and designated by the city council for that purpose.

20512. Every bid shall be accompanied by a certified check or a satisfactory corporate surety bond amounting to 10 percent of the bid, payable to the order of the city clerk or securing the city. The check or bond shall be forfeited to the city if the bidder depositing it does not within 10 days after the publication of a notice of award of the contract to him, enter into the necessary contract with the city. Upon such publication of notice of award of contract all other checks or bonds shall be returned to the bidders depositing them.

20513. The contract shall specify a date certain when the improvement shall be started, the date to be not more than 30 days after the execution thereof, and that the contract shall continue in force for a period of one year from the effective date of the contract.

20514. The city council may, by resolution passed prior to the notice inviting bids, impose such other reasonable conditions, including faithful performance bonds and materialmen's bonds, as may in its discretion appear to be necessary and proper.

Article 32.

20520. The provisions of this article shall apply to contracts by a city council, as provided in the Municipal Lighting Maintenance District Act of 1927, Part 3 (commencing with Section 18600) of Division 14 of the Streets and Highways Code.

20521. The city council shall make all contracts and all necessary provisions for the furnishing of the maintenance and operation finally determined upon for the lighting systems which are to be maintained and operated from funds of the district. Such contracts shall be made in the same manner and after the same notice and by the same persons as other city contracts for such items of maintenance and operation are made unless such contracts of the city are not required to be made after competitive bidding. In that case the contracts for the district shall be let only after competitive bidding and the officer whose duty it is to let contracts for such items for the city shall give or cause to be given a notice inviting sealed bids on the items to be purchased and fix a time and place at which the

bids will be opened and declared in public. The contract shall be awarded to the lowest responsible bidder, or if necessary for the public good any and all bids may be rejected and in such case readvertisement shall be had in the same manner as before. The notice inviting bids shall be published at least twice and the first publication shall be at least 10 days before the time set for opening the sealed bids.

Article 33.

20530. The provisions of this article shall apply to contracts by a joint highway district, as provided in the Joint Highway District Act, Part 1 (commencing with Section 25000) of Division 16 of the Streets and Highways Code.

20531. All construction work shall be done by contract awarded to the lowest responsible bidder after advertising for bids in a newspaper of general circulation published and circulated within the district which has been designated by the secretary or the board of directors for that purpose. The advertising shall be done by means of two publications of the notice inviting bids the first of which shall be not less than 10 days prior to the time fixed for receiving the bids.

20532. The notice inviting bids shall be upon such terms and conditions as the board of directors may determine, and shall require that each bid be accompanied either by a check certified to by some responsible bank within the state, or by a cashier's check issued by a responsible bank in the state, and made payable to the district in an amount not less than 10 percent of the aggregate amount of the bid. No bid shall be considered unless the check which accompanies it is satisfactory to the board of directors.

20533. All bids shall be delivered to the secretary of the board of directors not later than the hour fixed for receiving bids and shall thereafter be publicly opened by the secretary in the presence of the board of directors assembled in public session.

20534. The board of directors shall award the contract to the lowest responsible bidder. However, before awarding the contract the board may:

(a) Reject all bids should it deem this necessary for the good of the district.

(b) Reject the bid of any bidder who has been delinquent or unfaithful in any former contract with either the district, or any county composing the district, or with the state.

(c) Reject the bid of any bidder who is unable to satisfy the board of directors of his ability, financially or otherwise, to perform the contract for the proposed work.

20535. If all bids have been rejected because it appears that they are too high and that the work can be done more cheaply by day labor, the board may, in lieu of readvertising for bids, order the work done by day labor under the supervision of the district engineer.

20536. The bidder to whom any contract is awarded shall, within

20 days after the date of the award by the board of directors, execute a contract to perform the work. The contract shall be in a form approved by an attorney employed by the board of directors.

20537. Before the contract is executed, the person to whom it is awarded shall execute bonds for the faithful performance of the contract and for the payment of all claims for labor and material thereunder in the manner provided by law and in the form approved by an attorney employed by the board of directors.

20538. All of the bonds shall be executed by the bidder and by a corporate surety duly authorized to do business as such under the laws of the State of California. Each bond shall be in an amount not less than 50 percent of the aggregate contract price. The contract shall not be executed on behalf of the district until all the contract bonds are approved by the president of the board of directors and the district engineer.

20539. The president or vice president and secretary or assistant secretary shall sign and attest all construction contracts on behalf of the district.

20540. All construction contracts shall provide that a maximum of eight hours shall constitute a day's labor and that three dollars ($3) shall be the minimum amount paid for a day's labor performed upon any construction work covered by the contract.

20541. If any bidder to whom a contract is awarded fails to enter into the contract and execute the required bonds, the board of directors shall declare the check accompanying the bid of such bidder to be forfeited. Upon cashing the check the proceeds shall be placed to the credit of the construction fund of the district. The board of directors may thereupon award the contract to the next lowest responsible and acceptable bidder, or may call for new bids.

20542. During the course of the improvement of any highway the highway or project shall be under the control of the board of directors. The board of directors may make all necessary regulations, not in conflict with law, concerning the use of the highway. During that period, the board may exclude from the highway any vehicular or other traffic which may, in the opinion of the board of directors, be detrimental to the public safety or will result in injury to the roadway during the progress of the improvement.

20543. All laws relating to the use of state highways shall be applicable to any highways under the control of any district.

Article 34.

20550. The provisions of this article shall apply to contracts by a boulevard district, as provided for in Part 2 (commencing with Section 26000) of Division 16 of the Streets and Highways Code.

20551. The commission shall, pursuant to an order entered in its minutes, advertise for bids for the construction of the boulevard, either as a whole or in sections as it may see fit, in accordance with the plan theretofore adopted and filed, by publishing a notice calling

for bids at least once a week for two successive weeks in a weekly newspaper published within the district if there is such a newspaper published therein, otherwise in a newspaper published at the county seat of the county in which the district is located. The notice shall refer to the order and plan for further particulars. If the commission elects to receive separate bids for the construction of sections of the boulevard, the order shall describe the sections for which separate bids are desired.

The commission may advertise at the same time and in the same notice both for bids for the construction of the boulevard as a whole and for bids for the construction of separate sections.

20552. Every contract for the construction of the boulevard or for any section, if it is to be constructed in sections, shall be let, after advertisement, to the lowest responsible bidder, or the commission shall reject all bids for the construction of the boulevard or for any section and may readvertise for bids for doing the work in the same manner and for the same time as bids were originally called for.

20553. Before the making of any contract the bidder shall give a bond to the district for the faithful performance of his contract, which shall be signed by the bidder and sureties satisfactory to the commission in an amount equal to at least 50 percent of the amount of the contract price.

20554. The contract shall be executed on behalf of the district by the commission, subject to approval or rejection by the electors of the district, expressed at an election called for the purpose of issuing bonds for the payment of the contract. If the electors fail to approve the bond issue, the contract shall be void and the commission shall immediately return the bond to the contractor.

20555. If the cost of any construction work on the boulevard does not exceed one thousand dollars ($1,000) the commission may make contracts therefor without advertisement or it may do the work without letting any contract.

20556. The commission may do any or all maintenance or repair work upon the boulevard, either with or without contract, and with or without advertising for bids for contracts unless the cost of the work exceeds one thousand dollars ($1,000), in which event it shall only be done under contract after advertising for bids in the same manner as provided for advertising for bids and letting contracts for construction work.

20557. The commission may hire all necessary engineers, inspectors and superintendents to supervise the performance of contracts entered into by the commission, or to have charge of doing all work done without contract.

Article 35.

20560. The provisions of this article shall apply to contracts by irrigation districts, as provided for in the Irrigation District Law, Division 11 (commencing with Section 20500) of the Water Code.

20561. As used in this article "works" is limited to any works to be paid for with the proceeds of the sale of bonds or a limited assessment.

20562. Contracts for the construction of any works shall be made pursuant to the provisions of this article except when the board, with the approval of the commission, elects to proceed to construct the works or any part thereof under its own superintendence.

20563. The board shall give notice by publication once a week for three successive weeks in a newspaper published in the office county, or if no newspaper is published in that county, in a newspaper the board deems advisable, calling for bids for the construction of the works or of any portion of them.

20564. The notice calling for bids shall contain:

(a) A statement that the plans and specifications of the works to be constructed may be seen at the district office.

(b) A particular description of the portion of the works advertised if less than the whole works are advertised.

(c) A statement that the board will receive sealed bids for the construction of the works advertised or any portion of them designated by the board.

(d) A statement that the contract or contracts for the works advertised will be awarded to the lowest responsible bidder or bidders, but that any or all bids may be rejected.

(e) A statement of the time and place for opening the bids.

20565. At the time and place appointed the bids shall be opened in public.

20566. After opening the bids and as convenient the board shall award the contract or contracts for the works either in portions or as a whole to the lowest responsible bidder or bidders, but the board may reject any or all bids and readvertise for proposals or may proceed to construct the works or any part thereof under its own superintendence.

20567. In case of emergency or urgent necessity for any works, the board by unanimous vote of those present at any meeting may award a contract for the works without advertising for bids when the cost of the works does not exceed five hundred dollars ($500) and an additional amount equal to five cents ($0.05) for each acre of land.

20568. Contracts for the purchase of material to be furnished or used by the district in the works shall be awarded to the lowest responsible bidder or bidders after such notice as the board deems proper.

20569. Any person to whom a contract may be awarded pursuant to this article shall provide a bond with good and sufficient sureties, approved by the board, payable to the district for at least 25 percent of the estimated contract price, conditioned upon the faithful performance of the contract.

20570. The works shall be constructed under the direction and to the satisfaction of the engineer of the district and be subject to the approval of the board.

Article 36.

20580. The provisions of this article shall apply to contracts by water storage districts, as provided for in the California Water Storage District Law, Division 14 (commencing with Section 39000) of the Water Code.

20581. Before making any contract for the construction or improvement of works in carrying out any project, the board shall advertise for bids.

20582. When work is to be done the board shall give notice calling for bids by publication in the office county once a week for four consecutive weeks.

20583. If less than the whole work provided for in the plans and specifications is to be done, the portion to be done must be particularly described in the notice.

20584. The notice shall set forth that:

(a) Plans and specifications of the work to be done can be seen at the office of the board.

(b) The board will receive sealed bids.

(c) The contract will be let to the lowest responsible bidder.

(d) The bids will be opened in public at a given time and place.

20585. The board may either:

(a) Let the work to the lowest responsible bidder.

(b) Reject any or all bids and readvertise for proposals.

(c) Proceed to construct the work under its own superintendence.

20586. In case of emergency or urgent necessity the board, by unanimous vote of those present at any regular or special meeting, may award contracts without advertising for bids. The amount of any contract so awarded shall not exceed ten thousand dollars ($10,000).

20587. Contracts for the purchase of materials only shall be awarded to the lowest responsible bidder, except that the board may reject any or all bids for the furnishing of materials only and thereafter either readvertise for bids or solicit offers from not less than three responsible persons to furnish materials.

20588. Upon receipt of an offer for a less price than that specified in the lowest rejected bid, the board may enter into a contract for the furnishing of the materials with the person who has offered them at the lowest price.

20589. Any person to whom a contract is awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to the district for its use, for 25 percent of the amount of the contract price, conditioned for the full and faithful performance of the contract. The work shall be done under the direction and to the satisfaction of, and be approved by, the board.

20590. All contracts and other documents executed by the board shall be signed by the president and by the secretary.

Article 37.

20600. The provisions of this article shall apply to contracts by county waterworks districts, as provided for in the County Waterworks District Law, Division 16 (commencing with Section 55000) of the Water Code.

20601. All contracts in excess of three thousand five hundred dollars ($3,500) shall be let to the lowest responsible bidder, except that contracts under seven thousand five hundred dollars ($7,500) may be let pursuant to informal bidding procedures established by the board, and except that county waterworks districts may contract with each other, with the county, or, where the district is a subsidiary district of a city, with the city, for furnishing labor, materials, or supplies required for any improvement mentioned in this division upon such terms and conditions as their boards may elect. With the approval of the board of supervisors and the board of directors of the district, if any, or, where the district is a subsidiary district of a city, with the approval of the city council, and upon the terms and conditions they may determine, all contracts, including those under three thousand five hundred dollars ($3,500), may be let by the county or city purchasing agent, as applicable.

20602. The district shall advertise in the county pursuant to Section 6061 of the Government Code, inviting sealed proposals for furnishing labor, materials and supplies for the proposed improvement before any contract shall be made.

20603. The district shall have the right to require such bonds as it may deem best from the successful bidder, to insure the faithful performance of the contract, and shall also have the right to reject any and all bids.

20604. The district may, in case of emergency, proceed at once, by a vote of not less than three members of its board, to make such repairs, or to do such other work as may be necessary to prevent a threatened interruption of water supply, or to restore the waterworks system to working condition, without advertising for bids. The board shall cause a statement of the facts constituting the emergency to be entered in their minutes.

20605. When the board of supervisors and the board of directors of the district, if any, determine that any work of repairing, improving, renewing or extending district facilities can be done more economically and satisfactorily by day labor without letting contracts to the lowest bidder as provided in Section 20601, the governing body of the district may cause the work to be done by day labor.

20606. Nothing contained in this chapter shall be construed as prohibiting the county when ordered by the board of supervisors, or the city when ordered by the city council where the district is a subsidiary district of the city, to make the proposed improvement without a contractor therefor, and to purchase the materials and supplies, and employ the labor necessary for the purpose.

20607. The board of supervisors may, except in incorporated cities or towns, order and contract for any of the work, and the acquisition of any of the property contemplated, to be done or authorized to be acquired under this division, and to provide, if ordered by four-fifths of the members of the board of supervisors, that the cost shall be borne by a district.

20608. Any improvement for which bonds are voted under the provisions of this division, shall be made in conformity with the general description of the proposed improvement as provided for in the proceedings authorizing issuance of the bonds.

20609. Whenever for any reason water system facilities are proposed to be installed in a district by someone other than the district itself, or the installation cost is proposed to be paid by someone other than the district itself, and the facilities are to be thereafter dedicated to the district for public use, and the board determines that it is necessary and convenient to the purposes of the district that the acceptance of said dedication be conditional upon the water system facilities being adequate to serve land other than and in addition to land proposed by the installer to be served thereby, the board may by contract agree to reimburse and may reimburse the installer for the proportionate part of the total cost of such water system facilities which will serve and benefit other land, upon such terms as may be agreed upon.

20610. The reimbursement contract may provide that the reimbursement will be made in periodic payments over an agreed period of time not to exceed 10 years, exclusively out of charges imposed upon land and collected from persons owning the land other than the land proposed by the installer to be served by the water system facilities. The other land that may connect to and be served by the water system facilities shall be specified in the contract.

20611. Under no circumstances shall the total amount of all reimbursement payments made or agreed to be made exceed the amount, specified in said contract, for the total cost of the water system facilities exclusive of the costs attributable to the land of the installer. An amount attributable to interest may also be included in the contract, at a rate not to exceed 4 percent per annum from the date of installation to the date of connection of other land to the facilities.

20612. Whenever a district has contracted to reimburse an installer for the installation of water system facilities, it may impose upon land and collect from any person owning the land, other than the land designated in the contract as proposed by the installer to be served therefrom, which may connect to and receive water service from or through said water system facilities, a reasonable charge representing the proportionate share of the estimated cost of replacement or the proportionate share of the total installation cost of said water system facilities which is fairly attributable to the land which may receive water service. An amount attributable to interest

may be included in the charge at a rate not to exceed 4 percent per annum from the date of installation to the date of connection of other land to the facilities.

20613. All charges collected under Section 20612 shall be paid into the treasury of the district and treated in the same manner as other water revenues, except as otherwise provided in this chapter and the reimbursement contract.

Article 38.

20620. The provisions of this article shall apply to contracts by county drainage districts, as provided for in the County Drainage District Act, Division 17 (commencing with Section 56000) of the Water Code.

20621. Upon completion of the precise plans and specifications, the work or any portion of it may be done in any of the following ways as ordered by the district board:

(a) By purchasing the material and doing the work by day labor.

(b) By purchasing the material and letting a contract for the doing of the work.

(c) By purchasing only a portion or none of the material and letting a contract for furnishing the balance or all of the material and the doing of the work.

20622. Any contract for the doing of the work and furnishing any or all of the material shall be let to the lowest responsible bidder submitting a sealed bid in response to a notice calling for bids.

20623. The notice shall be published once a week for at least two successive weeks in a newspaper circulated in the county and shall refer to precise plans and specifications covering the work to be done and materials, if any, to be furnished. If the material to be purchased costs over one thousand dollars ($1,000), and there is no purchasing agent, the material shall be purchased from the lowest responsible bidder.

Article 39.

20630. The provisions of this article shall apply to contracts by levee districts, as provided for in the Levee District Law of 1959, Division 19 (commencing with Section 70000) of the Water Code.

20631. Contracts in excess of five hundred dollars ($500) for the construction or repair of any levees or associated works, unless the construction or repair is done under its own superintendence, shall be made pursuant to this chapter.

20632. The board shall give notice by publication, pursuant to Section 6063 of the Government Code, in calling for bids for the construction or repair of any of the levees or associated works of the district.

20633. The notice calling for bids shall contain:

(a) A statement that the plans and specifications of the

construction or repairs may be seen at the district office.

(b) A particular description of the construction or repair advertised if less than the whole construction or repair is advertised.

(c) A statement that the board will receive sealed bids for the construction or repairs advertised or any portion of them designated by the board.

(d) A statement that the contract or contracts for the construction or repair advertised will be awarded to the lowest responsible bidder or bidders, but that any and all bids may be rejected.

(e) A statement of the time and place for opening the bids.

20634. After opening the bids, and as convenient, the board shall award the contract or contracts for the construction or repair in portions, or as a whole, to the lowest responsible bidder or bidders, but the board may reject any and all bids and readvertise for proposals or may proceed to construct the works or any part thereof under its own superintendence.

20635. In case of emergency the board by unanimous vote of those present at any meeting may award a contract for construction or repair without advertising for bids.

Article 40.

20640. The provisions of this article shall apply to contracts by municipal water districts, as provided for in the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code.

20641. A district may prescribe methods for the construction of works and for the letting of contracts for any of the following purposes:

(a) The construction of works, structures or equipment.

(b) The performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this division.

(c) The acquisition or disposal of any real or personal property.

20642. When work is not to be done by the district itself by force account, and the amount involved is ten thousand dollars ($10,000), or more, any contract for the doing of such work shall be let to the lowest responsible bidder, after publication, in the manner prescribed by the board, of notices inviting bids therefor. However, the board may reject any and all proposals.

20643. Notwithstanding Section 20642, contracts, in writing or otherwise, for the acquisition or disposal of any real or personal property may be let without calling for competitive bids.

20644. The board may, from time to time, establish the manner of calling for bids and letting contracts, but except as such procedure so established by the board otherwise requires, all contracts may be entered into upon such terms and in such manner as the board may authorize.

SEC. 12. Section 12845 of the Public Utilities Code is repealed.

SEC. 13. Section 12846 of the Public Utilities Code is repealed.

SEC. 14. Section 16501 of the Public Utilities Code is repealed.

SEC. 15. Article 3 (commencing with Section 25751) of Chapter 6 of Part 1 of Division 10 of the Public Utilities Code is repealed.

SEC. 16. Section 28990 of the Public Utilities Code is repealed.

SEC. 17. Section 28991 of the Public Utilities Code is repealed.

SEC. 18. Section 28992 of the Public Utilities Code is repealed.

SEC. 19. Article 3 (commencing with Section 30570) of Chapter 5 of Part 3 of Division 10 of the Public Utilities Code is repealed.

SEC. 20. Article 3 (commencing with Section 40170) of Chapter 6 of Part 4 of the Public Utilities Code is repealed.

SEC. 21. Article 3 (commencing with Section 50170) of Chapter 6 of Part 5 of the Public Utilities Code is repealed.

SEC. 22. Article 3 (commencing with Section 70170) of Chapter 6 of Part 7 of the Public Utilities Code is repealed.

SEC. 23. Article 3 (commencing with Section 90440) of Chapter 6 of Part 8 of the Public Utilities Code is repealed.

SEC. 24. Article 3 (commencing with Section 96060) of Chapter 6 of Part 9 of the Public Utilities Code is repealed.

SEC. 25. Article 3 (commencing with Section 98230) of Chapter 6 of Part 10 of the Public Utilities Code is repealed.

SEC. 26. Section 100123 of the Public Utilities Code is repealed.

SEC. 27. Article 3 (commencing with Section 101185) of Chapter 5 of Part 13 of the Public Utilities Code is repealed.

SEC. 28. Section 102223 of the Public Utilities Code is repealed.

SEC. 29. Section 103224 of the Public Utilities Code is repealed.

SEC. 30. Section 120224 of the Public Utilities Code is repealed.

SEC. 31. Section 125225 of the Public Utilities Code is repealed.

SEC. 32. Section 130258 of the Public Utilities Code is amended to read:

130258. If the Los Angeles County Transportation Commission is authorized to construct a transit guideway system, the commission shall closely coordinate the planning, design, and construction of the system with the Southern California Rapid Transit District, which shall serve as the designated operator of the system pursuant to Section 130254.

SEC. 33. Article 3 (commencing with Section 6.10) of Chapter 1932 of the Statutes of 1961 is repealed.

SEC. 34. Section 8.1 of Chapter 104 of the Statutes of 1964, First Extraordinary Session, is repealed.

SEC. 35. Section 1071 of the Streets and Highways Code is repealed.

SEC. 36. Section 1072 of the Streets and Highways Code is repealed.

SEC. 37. Section 1073 of the Streets and Highways Code is repealed.

SEC. 38. Section 1074 of the Streets and Highways Code is repealed.

SEC. 39. Section 1075 of the Streets and Highways Code is

repealed.

SEC. 40. Section 1076 of the Streets and Highways Code is repealed.

SEC. 41. Section 1076.1 of the Streets and Highways Code is repealed.

SEC. 42. Section 1188 of the Streets and Highways Code is repealed.

SEC. 43. Section 1320 of the Streets and Highways Code is repealed.

SEC. 44. Section 1325 of the Streets and Highways Code is repealed.

SEC. 45. Section 1325.5 of the Streets and Highways Code is repealed.

SEC. 46. Section 1326 of the Streets and Highways Code is repealed.

SEC. 47. Section 1327 of the Streets and Highways Code is repealed.

SEC. 48. Section 1328 of the Streets and Highways Code is repealed.

SEC. 49. Section 1329 of the Streets and Highways Code is repealed.

SEC. 50. Section 1331 of the Streets and Highways Code is repealed.

SEC. 51. Section 1332 of the Streets and Highways Code is repealed.

SEC. 52. Chapter 8.5 (commencing with Section 5230) of Part 3 of Division 7 of the Streets and Highways Code is repealed.

SEC. 53. Chapter 9 (commencing with Section 5240) of Part 3 of Division 7 of the Streets and Highways Code is repealed.

SEC. 54. Chapter 10 (commencing with Section 5265) of Part 3 of Division 7 of the Streets and Highways Code is repealed.

SEC. 55. Chapter 11 (commencing with Section 5280) of Part 3 of Division 7 of the Streets and Highways Code is repealed.

SEC. 56. Chapter 12 (commencing with Section 5290) of Part 3 of Division 7 of the Streets and Highways Code is repealed.

SEC. 57. Chapter 6 (commencing with Section 8175) of Part 2 of Division 9 of the Streets and Highways Code is repealed.

SEC. 58. Chapter 6 (commencing with Section 10500) of Division 12 of the Streets and Highways Code is repealed.

SEC. 59. Section 18171 of the Streets and Highways Code is repealed.

SEC. 60. Section 18171.1 of the Streets and Highways Code is repealed.

SEC. 61. Section 18172 of the Streets and Highways Code is repealed.

SEC. 62. Section 18173 of the Streets and Highways Code is repealed.

SEC. 63. Section 18174 of the Streets and Highways Code is repealed.

SEC. 64. Section 18175 of the Streets and Highways Code is repealed.

SEC. 65. Section 18176 of the Streets and Highways Code is repealed.

SEC. 66. Chapter 6 (commencing with Section 18420) of Part 2 of Division 14 of the Streets and Highways Code is repealed.

SEC. 67. Chapter 7 (commencing with Section 18760) of Part 3 of Division 14 of the Streets and Highways Code is repealed.

SEC. 68. Chapter 11 (commencing with Section 25250) of Part 1 of Division 16 of the Streets and Highways Code is repealed.

SEC. 69. Chapter 8 (commencing with Section 26140) of Part 2 of Division 16 of the Streets and Highways Code is repealed.

SEC. 70. Article 4 (commencing with Section 22300) of Chapter 2 of Part 5 of Division 11 of the Water Code is repealed.

SEC. 71. Chapter 3 (commencing with Section 43300) of Part 6 of Division 14 of the Water Code is repealed.

SEC. 72. Chapter 3 (commencing with Section 55350) of Part 3 of Division 16 of the Water Code is repealed.

SEC. 73. Section 56056 of the Water Code is repealed.

SEC. 74. Section 56057 of the Water Code is repealed.

SEC. 75. Section 56058 of the Water Code is repealed.

SEC. 76. Article 2 (commencing with Section 70170) of Part 1 of Division 19 of the Water Code is repealed.

SEC. 77. Article 2 (commencing with Section 71740) of Chapter 5 of Part 5 of Division 20 of the Water Code is repealed.

SEC. 78. Section 20221 is added to the Public Contract Code, to read:

20221. (a) The purchase of all supplies, equipment, and materials when the expenditure required exceeds twenty-five thousand dollars ($25,000), and the construction of facilities and works when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise in its discretion.

(b) Whenever the expected procurement required exceeds one thousand dollars ($1,000) and, in the case of the construction of facilities and works does not exceed ten thousand dollars ($10,000) or in the case of the purchase of supplies, equipment, or materials does not exceed twenty-five thousand dollars ($25,000), the district shall obtain a minimum of three quotations, either written or oral, which permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than fifty thousand dollars ($50,000), the general manager may act for the board.

SEC. 79. Section 20341 is added to the Public Contract Code, to read:

20341. Contracts for the construction in excess of twenty

thousand dollars ($20,000) shall be awarded to the lowest responsible bidder submitting a responsible bid after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board.

SEC. 80. If this bill and Senate Bill 1476 are both chaptered and become effective on or after January 1, 1983, and this bill is chaptered after Senate Bill 1476, Section 78 of this bill shall become effective and the portion of Section 11 of this bill which adds Section 20221 to the Public Contract Code is repealed.

If this bill and Senate Bill 1834 are both chaptered and become effective on or after January 1, 1983, and this bill is chaptered after Senate Bill 1834, Section 79 of this bill shall become effective and the portion of Section 11 of this bill which adds Section 20341 to the Public Contract Code is repealed.

CHAPTER 466

An act to amend Sections 10131.1, 10133.1, 10167.7, 10232.2, 10232.4, 10239.24, 12701, and 22394 of the Business and Professions Code, to amend and renumber the heading of Chapter 4 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of, to add Chapters 4 (commencing with Section 1917.010) and 5 (commencing with Section 1917.110) to Title 4 of Part 4 of Division 3 of, and to repeal Chapters 4 (commencing with Section 1917.010) and 5 (commencing with Section 1917.110) of Title 4 of Part 4 of Division 2 of, the Civil Code, to amend Section 86 of the Code of Civil Procedure, to amend Sections 12032, 15528, 15592, 15910, 16195, 16402, 16603, 24809, 32200, 33500, 35515, 35577, 37228, 39398, 41342, 42237.7, 42647, 44203, 44493, 44858, 45117, 52014, and 56454 of, to repeal Section 84717 of, to repeal the headings of Article 4 (commencing with Section 37530) of Chapter 4 of Part 22 of, Article 2 (commencing with Section 42420) of Chapter 8 of Part 24 of, and Article 5 (commencing with Section 92650) of Chapter 6 of Part 57 of, the Education Code, to amend Sections 100 and 2601 of the Elections Code, to amend Sections 752, 855, and 2071 of, and to repeal Section 18643.1 of, the Financial Code, to amend and renumber Sections 71000 and 71001 of, to amend and renumber the heading of Article 5 (commencing with Section 500) of Chapter 3 of Part 1 of Division 1 of, the Food and Agricultural Code, to amend Sections 8807.5, 8808, 8809, 8835, 8838, 8947, 8950, 8951, 8952, 8955, 26827.4, 36503, and 66452.5 of, to repeal Sections 14257, 14382, and 21206 of, and to repeal Articles 8.1 (commencing with Section 14410) and 8.2 (commencing with Section 14415) of Chapter 3 of Part 5 of Division 3 of Title 2 of, the Government Code, to amend Section 501 of the Harbors and Navigation Code, to amend Sections 26636, 35805, 41958, 50003, and 50201 of the Health and Safety Code, to amend Sections 1751, 11699, 11715, and 11873 of, and to repeal Section 670 (as amended by Section 9 of Chapter 53 of the

Statutes of 1982) of, the Insurance Code, to amend Section 871.5 of the Penal Code, to amend Sections 190.3, 718.5, and 1035 of the Probate Code, to amend Sections 10106, 10107, 10160, 10230, 10263, and 10265 of, and to add Sections 10110 and 10232 of, to add Articles 7.1 (commencing with Section 10240) and 7.2 (commencing with Section 10245) to Chapter 1 of Division 2 of, the Public Contract Code, to amend Sections 13409, 15209, 17053, 17599, 17916, 18103, 18685.8, 20622, 23605, 24343.5, and 25101 of the Revenue and Taxation Code, to amend Sections 25.5, 627, 9808, 11301.5, 11511, 16054, 16071, 16433, 16436, 21655.5, 22507.6, 34003, 38060, and 40610 of, and to amend and renumber Section 27156.2 of, the Vehicle Code, to amend Section 4656 of, to amend and renumber the heading of Chapter 3 (commencing with Section 4330) of Division 4 of, and to repeal Section 4656 of, the Welfare and Institutions Code, and to amend Section 2 of Chapter 91 of the Statutes of 1927, relating to maintenance of the codes.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 9, 1982.]

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

SECTION 1. Section 10131.1 of the Business and Professions Code is amended to read:

10131.1. A real estate broker within the meaning of this part is also a person who engages as a principal in the business of buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who makes agreements with the public for the collection of payments or for the performance of services in connection with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

As used in this section, "in the business" means any of the following:

(a) The acquisition for resale to the public, and not as an investment, of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year.

(b) The sale to or exchange with the public of eight or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year. However, no transaction negotiated through a real estate licensee shall be considered in determining whether a person is a real estate broker within the meaning of this section.

As used in this section, "sale", "resale", and "exchange" include every disposition of any interest in a real property sales contract or promissory note secured directly or collaterally by a lien on real property.

SEC. 2. Section 10133.1 of the Business and Professions Code is

amended to read:

10133.1. Subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with Section 10240) and Section 1695.13 of the Civil Code do not apply to any of the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by the agency.

(c) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), provided, the fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker or as a consumer finance lender when acting under the authority of that license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property, insofar as those activities are concerned, and (1) who is not actively engaged in the business of negotiating loans secured by real property or (2) who is not acting as a principal or agent in the sale or exchange of promissory notes secured directly or collaterally by liens on real property; provided

that any of the following apply:

(1) The person has made application to the commissioner and has complied with all the provisions of Section 10133.25.

(2) The person makes the collections on 10 or less of the loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year.

(3) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code.

(j) Any person authorized in writing by a savings and loan association to act as an agent, as defined in Section 5053 of the Financial Code, of that savings and loan association, when acting under the authority of the written authorization.

SEC. 3. Section 10167.7 of the Business and Professions Code is amended to read:

10167.7. Except as provided in Section 10167.8, each licensee shall provide to the department, and at all times maintain in force, a bond in the amount of two thousand five hundred dollars ($2,500) for each location. The bond may be in the form of a corporate surety bond, or a cash deposit. A cash deposit may be deposited by the licensee in an interest-bearing account assigned to the commissioner, with interest earned thereon payable to the licensee. The bond or cash deposit may be utilized by the commissioner for the benefit of any unsatisfied judgment creditor in an action pursuant to subdivision (f) of Section 10167.10.

SEC. 4. Section 10232.2 of the Business and Professions Code is amended to read:

10232.2. A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall annually file the reports referred to in subdivisions (a) and (c) with the Department of Real Estate within 90 days after the end of the broker's fiscal year or within such additional time as the Real Estate Commissioner may allow for filing for good cause:

(a) The report of a review by a licensed California independent public accountant of trust fund financial statements, conducted in accordance with generally accepted accounting practices, which shall include within its scope the following information for the fiscal year relative to the business activities of the broker described in subdivisions (d) and (e) of Section 10131:

(1) The receipt and disposition of all funds of others to be applied to the making of loans and the purchasing of promissory notes or real property sales contracts.

(2) The receipt and disposition of all funds of others in connection with the servicing by the broker of the accounts of owners of promissory notes and real property sales contracts including installment payments and loan or contract payoffs by obligors.

(3) A statement as of the end of the fiscal year which shall include an itemized trust fund accounting of the broker and confirmation that the trust funds are on deposit in an account or accounts maintained by the broker in a financial institution.

(b) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year, accepted for the benefit of a person to whom the broker is a trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the broker's fiscal year or, within such additional time as the commissioner may allow for a filing for good cause, a notarized statement under penalty of perjury on a form provided by the department attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal year.

(c) A report of all of the following aspects of the business conducted by the broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1:

(1) Number and aggregate dollar amount of loan, trust deed sales and real property sales contract transactions negotiated.

(2) Number and aggregate dollar amount of promissory notes and contracts serviced by the broker or an affiliate of the broker.

(3) Number and aggregate dollar amount of late payment charges, prepayment penalties and other fees or charges collected and retained by the broker under servicing agreements with beneficiaries and obligees.

(4) Default and foreclosure experience in connection with promissory notes and contracts subject to servicing agreements between the broker and beneficiaries or obligees.

(5) Commissions received by the broker for services performed as agent in negotiating loans and sales of promissory notes and real property sales contracts.

(6) Aggregate costs and expenses as referred to in Section 10241 paid by borrowers to the broker.

(d) The commissioner shall adopt regulations prescribing the form and content of the report referred to in subdivision (c) with appropriate categories to afford a better understanding of the business conducted by the broker.

(e) If the broker fails to file either of the reports required under subdivisions (a) and (c) within the time permitted herein, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report.

(f) The reports referred to in subdivisions (a) and (c) are exempted from any requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the Government Code. The commissioner shall annually make and file as a public record, a composite of the annual reports and any comments thereon which are deemed to be in the public interest.

SEC. 5. Section 10232.4 of the Business and Professions Code is amended to read:

10232.4. (a) In making a solicitation to a particular person and in

negotiating with that person to make a loan secured by real property or to purchase a real property sales contract or a note secured by a deed of trust, a real estate broker who meets the criteria of Section 10232 shall deliver to the person solicited the applicable completed statement described in Section 10232.5 as early as practicable before he or she becomes obligated to make the loan or purchase and before the receipt by or on behalf of the broker of any funds from that person. The statement shall be signed by the prospective lender or purchaser and by the real estate broker, or by a real estate salesperson licensed to the broker, on the broker's behalf. When so executed, an exact copy shall be given to the prospective lender or purchaser, and the broker shall retain a true copy of the executed statement for a period of four years.

(b) The requirement of delivery of a disclosure statement pursuant to subdivision (a) does not apply with respect to any of the following persons:

(1) The prospective purchaser of a security offered under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) which requires that each prospective purchaser of a security be given a prospectus or other form of disclosure statement approved by the department issuing the permit.

(2) The seller of real property who agrees to take back a promissory note of the purchaser as a method of financing all or a part of the purchase of the property.

(3) The prospective purchaser of a security offered pursuant to and in accordance with a regulation duly adopted by the Commissioner of Corporations granting an exemption from qualification under the Corporate Securities Law of 1968 for the offering if one of the conditions of the exemption is that each prospective purchaser of the security be given a disclosure statement prescribed by the regulation before the prospective purchaser becomes obligated to purchase the security.

SEC. 6. Section 10239.24 of the Business and Professions Code is amended to read:

10239.24. Upon taking possession of the property and business of any person in any proceeding under this article, the commissioner, exclusively and except as otherwise expressly provided by this article, either as conservator or liquidator:

(a) Shall have authority to collect all moneys due the person, and to do such other acts as are necessary or expedient to collect, conserve, or protect its assets, property and business, and to carry on and conduct the business and affairs of any such person or so much thereof as to him or her may seem appropriate.

(b) Shall collect all debts due and claims belonging to the person, and shall have the authority to sell, compound, compromise or assign, for the purpose of collection upon such terms and conditions as he

or she deems best, any bad or doubtful debts.

(c) Shall have authority to compound, compromise, or in any other manner negotiate settlements of claims against that person upon such terms and conditions as he or she shall deem to be most advantageous to the estate of the person being administered or liquidated or otherwise dealt with under this article.

(d) Shall have authority without notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with, any real or personal property of any such person at its reasonable market value, or, in cases other than acquisition, sale, or transfer on the basis of reasonable market value, upon such terms and conditions as he or she may deem proper. However, no transaction involving real or personal property shall be made where the market value of the property involved exceeds the sum of one thousand dollars ($1,000) without first obtaining permission of the court, and then only in accordance with such terms as the court may prescribe.

(e) Shall have authority to transfer to a trustee or trustees, under a voting trust agreement, the stock of a dealer heretofore or hereafter issued to him or her as conservator or as liquidator in connection with a rehabilitation agreement, or any other proceeding under this article. The voting trust agreement shall confer upon the trustee or trustees the right to vote or otherwise represent the stock, and shall not be irrevocable for a period of more than 21 years.

(f) May, for the purpose of executing and performing any of the powers and authority conferred upon him or her under this article, in the name of the person affected by the proceeding or in his or her own name, prosecute and defend any and all suits and other legal proceedings, and execute, acknowledge, and deliver any and all deeds, assignments, releases, and other instruments necessary and proper to effectuate any sale of any real and personal property or other transaction in connection with the administration, liquidation, or other disposition of the assets of the person affected by the proceeding; and any deed or other instrument executed pursuant to the authority hereby given shall be valid and effectual for all purposes as though it had been executed by the person affected by any proceeding under this article or by its officers pursuant to the direction of its governing board or authority. In cases where any real property sold by the commissioner under this article is located in a county other than the county wherein the proceeding is pending, the commissioner shall cause a certified copy of the order of his or her appointment, or order authorizing or ratifying the sale, to be filed in the office of the county recorder of the county in which the property is located.

(g) Shall have authority to invest and reinvest, in such manner as he or she may deem suitable for the best interests of the creditors of the person, such portions of the funds and assets of the person in his or her possession, and which funds and assets are not immediately distributable to creditors. However, no such investment or

reinvestment shall be made which exceeds the sum of one thousand dollars ($1,000) without first obtaining permission of the court, and then only in accordance with such terms as the court may prescribe.

(h) Within six months after taking possession of the property and business of any dealer, the commissioner may terminate or adopt any executory contract to which the dealer may be a party including leases of real or personal property. Claims for damages resulting from the termination of any such contract or lease may be filed and allowed, but no claim of a landlord for damages resulting from the rejection of an unexpired lease of real property or under any covenant of such lease shall be allowed in an amount greater than due under the lease for a period of one year following the surrender of the premises.

The enumeration, in this article, of duties, powers and authority of the commissioner in proceedings under this article shall neither be construed as a limitation upon the commissioner, nor shall it exclude in any manner his or her right to perform and to do such other acts not herein specifically enumerated, or otherwise provided for, which he or she may deem necessary or expedient for the accomplishment or in aid of the purpose of the proceedings.

SEC. 7. Section 12701 of the Business and Professions Code is amended to read:

12701. The following shall not be construed to be public weighmasters:

(a) Retailers weighing, measuring, or counting commodities for sale by them in retail stores directly to consumers. This exemption does not apply to persons, firms, or corporations weighing bulk lot commodities on vehicle or hopper scales, or selling those commodities by volume, when the purchaser is not present at the time the weight or measure determination is made.

(b) Producers of agricultural commodities or livestock, weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for such weighing, or no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based. However, if the weight is to be used by a processor or conditioner as a basis of payment there is no exception to Section 12734.

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Weighers licensed under Section 35161 of the Food and Agricultural Code when performing the duties for which they are licensed.

(e) Employees of the department authorized to weigh agricultural products under Chapter 8 (commencing with Section 12801) of Division 5, when performing the duties authorized thereby.

(f) Persons who measure the amount of oil, gas, or other fuels for

purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(g) Employees of newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(h) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of those establishments.

(i) Employees of garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code and county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, which are authorized by their respective governing boards to utilize scales in determining charges for the disposal of liquid and solid wastes and employees of operators of solid waste disposal facilities, as defined in Section 66720.1 of the Government Code.

(j) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit recycling program.

(k) Persons operating under a license issued pursuant to Section 11701 of the Food and Agricultural Code.

(*l*) Retailers weighing, measuring, or counting salvage or returnable materials for purchase or redemption by them in retail stores directly from and in the presence of the seller.

(m) For the purposes of this section, "retailer" means an entity which derives 90 percent or more of its income from the sale of small quantities of food and nonfood items directly to consumers, and "salvage materials" means used paper products and used containers made of aluminum, tin, glass, or plastic.

SEC. 8. Section 22394 of the Business and Professions Code is amended to read:

22394. If any provision of this act or the application thereof to any person or circumstances is held unconstitutional, the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 9. Chapter 4 (commencing with Section 1917.010) of Title 4 of Part 4 of Division 2 of the Civil Code is repealed.

SEC. 10. Chapter 5 (commencing with Section 1917.110) of Title 4 of Part 4 of Division 2 of the Civil Code is repealed.

SEC. 11. Chapter 4 (commencing with Section 1917.010) is added to Title 4 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 4. SHARED APPRECIATION LOANS OF E.R.I.S.A. PENSION FUNDS

Article 1. Legislative Findings and Declarations

1917.010. The Legislature hereby finds and declares that:

(a) It is necessary and essential that the state provide and promote alternative means of supplying affordable housing to the citizens of

the state.

(b) High interest rates have caused payment schedules for new long-term, fixed-rate and adjustable-rate mortgages to exceed affordable levels for the vast majority of the state's households.

(c) Because of current economic conditions, including high and volatile interest rates, alternative mortgage instruments must be developed to supplement the standard long-term, fixed-rate mortgage.

(d) Because the interest to which the lender is entitled under a shared appreciation mortgage includes a share of the appreciated value of the property securing the loan, the periodic payments under a shared appreciation mortgage are lower and, therefore, more affordable to borrowers than under a mortgage in which the lender's interest does not include a share of the appreciated value of the property. State authorization of the shared appreciation loan for pension fund lenders will serve the need to develop alternative and more affordable means of financing the construction of new housing and the subsequent marketing of new homes, and to create vitally needed jobs in the construction industry.

(e) Pension funds may find shared appreciation loans suited to their investment needs since yields are keyed to appreciation in property values, which may serve as a hedge against inflation.

Article 2. Definitions

1917.020. For purposes of this chapter:

(a) "Adjusted fair market value" means all of the following:

(1) The net sale price, in the case of a bona fide sale made in good faith prior to the maturity date of the shared appreciation loan, but excluding any sale upon a foreclosure or trustee's sale pursuant to Section 726 of the Code of Civil Procedure or Section 2924.

(2) In all other cases, the amount of value of the property specified in the most recent annual appraisal performed pursuant to Section 1917.040 or 1917.042.

(b) "Borrower's cost of the property" means the total cost to the borrower incident to the purchase of the property, including documentary transfer taxes, escrow and recording fees, and title insurance premiums.

(c) "Contingent deferred interest" means the sum resulting upon multiplying the net appreciated value by one-third.

(d) "Cost of capital improvements" means the amount of the credit, if any, determined pursuant to Article 5 (commencing with Section 1917.050).

(e) "Lender" means any person who makes a shared appreciation loan on behalf of a pension fund specified in Section 1917.030. Subsequent to an assignment of a shared appreciation loan to a pension fund pursuant to Section 1917.030, "lender" shall mean the pension fund assignee (or any subsequent assignee) and its agents designated to service the shared appreciation loan.

(f) "Net appreciated value" means the adjusted fair market value less the sum of the borrower's cost of the property and the cost of capital improvements.

(g) "Net sale price" means the gross sale price less expenses of sale actually paid by the borrower, including real estate commissions, advertising, documentary transfer taxes, legal, escrow and recording fees, and title insurance premiums.

(h) "Prevailing rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market system auction for four-month conventional mortgage commitments or, if the Federal National Mortgage Association alters its free market system auction, then the system which is adopted by the Federal National Mortgage Association which substantially replaces or supersedes the present free market system auction for four-month commitments, or if no auction or equivalent thereof has been conducted within the six months immediately preceding the date the application for a shared appreciation mortgage loan is executed, the weighted average cost of funds for the 11th District Savings and Loan Associations as computed by the Federal Home Loan Bank of San Francisco.

(i) "Shared appreciation loan" means any loan made pursuant to this chapter and includes a deed of trust and any evidence of debt issued in connection with the loan.

Article 3. Terms and Conditions

1917.030. Lenders may make shared appreciation loans pursuant to this chapter for the purchase of real property improved with one- to four-family dwelling units, including structures ancillary to such dwelling units and including attached single-family dwelling units, single-family mobilehome units placed upon permanent foundations, residential condominium units and dwelling units within a planned unit development. Shared appreciation loans shall be made to finance only owner-occupied dwelling units, but in the case of two- to four-unit dwellings financed under this chapter only one of the units need be owner-occupied. The original recipient of a shared appreciation loan shall certify in writing to the lender that he or she will occupy the security property as his or her principal residence, provided that failure to so occupy the security property shall not void a shared appreciation loan, but at the option of the lender the loan may be accelerated in accordance with the terms and conditions provided in the shared appreciation loan. All shared appreciation loans shall be originated by the lender on behalf of a pension fund which is subject to the Employee Retirement Income Security Act of 1974 (P.L. 93-406, 88 Stat. 829), pursuant to a prior written commitment to purchase the loan.

1917.031. A shared appreciation loan shall include the following terms and conditions:

(a) The term of the loan, excluding refinancing under Section

1917.033, shall be at least seven years, but not more than 30 years.

(b) The repayment schedule for the loan, excluding refinancing under Section 1917.033, shall be cast so that full amortization of the principal amount of the loan would occur in 30 years, regardless of the actual term of the loan. Any principal balance remaining at maturity shall be due and payable at that time, unless refinanced as provided in Section 1917.033. Monthly installment payments shall be equal in amount and in addition to amortization of principal, shall include fixed interest pursuant to subdivision (d).

(c) The loan shall be secured by a deed of trust or mortgage on the real property financed.

(d) The loan shall bear interest at a fixed rate, which shall be one-third below the prevailing rate in effect 90 days prior to the loan closing, or at another date between that date and the loan closing if mutually agreed by the lender and borrower.

(e) The borrower shall additionally be obligated to pay contingent deferred interest in the amount of one-third of the net appreciated value of the real property which secures the loan, at the time the property is sold (including a sale pursuant to a land sale contract), when title is transferred, other than a transfer specified in Section 2924.6, when a lease with an option to purchase is entered into, when a partnership is formed which in effect transfers the beneficial ownership to another person, when a trust is created which affects title to the property, upon a judicial or nonjudicial foreclosure sale, at the time the loan is prepaid in full, or upon the maturity of the loan, whichever first occurs.

1917.032. (a) The borrower shall have the right to prepay, at any time, in full or in part, the principal loan balance of the shared appreciation loan, together with accrued interest, including deferred contingent interest.

(b) Nothing in this chapter shall prevent a borrower from obligating himself or herself, by an agreement in writing, to pay a prepayment charge, as authorized by this section, upon prepayment of the loan, in full or in part, within five years of the date of execution of the shared appreciation loan.

(c) Any prepayment charge imposed upon the prepayment of a shared appreciation loan shall not exceed the amount authorized and specified in subdivision (b) of Section 2954.9.

(d) No prepayment charge shall be imposed as to any portion of the contingent deferred interest.

1917.033. (a) If the shared appreciation loan is not prepaid in full or the real property securing the loan is not sold or transferred prior to maturity of the loan, the lender shall offer to the original borrower refinancing of the unpaid balance of the loan and all contingent deferred interest.

(b) The term of the refinancing loan shall be at least 30 years from the date of the refinancing, provided that if the interest rate of the refinancing loan is not adjustable or variable during the term of such loan, the loan may contain a call provision giving the lender an

option to accelerate the principal loan balance making it, together with accrued interest, payable in full at a date specified in the shared appreciation loan, which shall be no earlier than seven years following the date of refinancing under this section. If such a call provision is included in the refinancing loan, a concise description thereof shall be included in upper case print in the disclosures on refinancing required by Section 1917.071.

(c) The interest rate for the refinancing loan shall not exceed the prevailing rate existing at maturity of the shared appreciation loan.

(d) The lender may require as a condition of the refinancing loan that it be secured by a deed of trust or mortgage of first priority on the property financed.

(e) The terms and conditions of refinancing pursuant to this section shall be specified in the shared appreciation loan, shall be a part of the shared appreciation loan contract, and shall be subject to the applicable laws in effect on the date of execution of the shared appreciation loan. The refinancing shall be fully amortizing and the interest rate may be either fixed or adjustable as permitted by law for home financing offered by banks or savings and loan associations doing business in this state to the public for financing housing similar to the borrower's property, provided that nothing in this section shall preclude such other lawful refinancing terms as may be mutually acceptable to the borrower and lender. If the lender offers more than one form of refinancing, the borrower may select from among the types of refinancing offered by the lender.

1917.034. Nothing in this chapter shall preclude the borrower from obtaining any other financing, in lieu of the refinancing provided for in Section 1917.033, including refinancing on other terms that are mutually agreeable to the borrower and lender.

Article 4. Annual Appraisals

1917.040. The fair market value of the real property securing a shared appreciation loan shall be determined annually as provided in this article. The lender shall select an independent appraiser annually to perform an appraisal of the property subject to a shared appreciation loan. The appraisal shall be performed within 30 days preceding the anniversary date of the loan and a copy of the current appraisal shall be sent by first-class mail to the borrower no later than five days following the anniversary date of the loan, together with a notice informing the borrower that the appraisal will constitute a final and conclusive determination of the value of the property for certain purposes and that if the borrower disputes the amount of the appraisal, the borrower may procure an independent appraisal as provided in Section 1917.041. The lender may require the borrower to pay for the cost of the appraisal.

1917.041. If the borrower disputes the amount of the appraisal, the borrower, within 30 days of the anniversary date of the loan, may procure an appraisal of the property at the borrower's expense by a

qualified independent appraiser, and a copy of the appraisal shall be sent by first-class mail to the lender within the 30-day period.

1917.042. If the appraisal by the appraiser selected by the borrower is lower in amount than the appraisal by the appraiser selected by the lender, the amount to be used to calculate the annual adjustment shall be one-half of the sum of the two appraisals.

1917.043. The appraisal amount, as determined pursuant to Section 1917.040 if the borrower does not dispute the appraisal amount, or 1917.042 if the borrower disputes the appraisal amount, shall constitute the value of the property from and after the anniversary date of the loan for the purpose of determining the property's adjusted fair market value under Section 1917.020.

1917.044. The qualifications of the appraisers may be specified by the terms of the shared appreciation loan for purposes of this article and Article 5 (commencing with Section 1917.050).

Article 5. Improvements

1917.050. The borrower may have the cost of capital improvements to the security property completed within any 12-month period, and with an appraised value in excess of two thousand five hundred dollars ($2,500), added to the borrower's cost of the property, for purposes of determining the contingent deferred interest, but only if the procedures set forth in this article are followed.

(a) Within 60 days following the completion of the improvements, the borrower shall send by first-class mail a notice of the completion of the improvements to the lender and shall submit proof of cost of the improvements.

(b) Within 90 days following the completion of the improvements, the lender shall select an appraiser to perform an appraisal to determine the increase in value of the property, if any, by reason of the improvements. A copy of the appraisal shall be sent by first-class mail to the borrower, together with a notice informing the borrower that the appraisal will constitute a final and conclusive determination of the increase in the value of the property by reason of the improvement for purposes of computing the net appreciated value of the property, and that if the borrower disputes the amount of the appraisal, the borrower may procure an independent appraisal as provided in subdivision (c). The lender may require the borrower to pay for the cost of the appraisal.

(c) If the borrower disputes the amount of the appraisal, the borrower, within 120 days of the completion of the improvements, may secure at borrower's expense, a qualified, independent appraiser to perform an appraisal to determine the increase in value of the property, if any, by reason of the improvements, and a copy of the appraisal shall be sent by first-class mail to the lender within that period of time.

(d) If the appraisal of the appraiser selected by the borrower is

greater in amount than the appraisal by the appraiser selected by the lender, the amount of the appraisal, for the purposes of this section, shall be one-half of the sum of the two appraisals.

(e) The lesser of the borrower's actual cost or the appraised increase in the value of the property by reason of the improvements shall be available as a credit to the buyer for purposes of determining net appreciated value, except as provided in subdivision (f).

(f) If 50 percent or more of the value of the labor or other work on the improvements was performed by the borrower, then the appraised increase in the value of the property by reason of the improvements shall be the cost of capital improvements for purposes of establishing the credit under this section.

Article 6. General Provisions

1917.060. The relationship of the borrower and the lender, as to a shared appreciation loan, is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership, or other relationship.

1917.061. Any waiver of any right of a borrower under the provisions of this chapter shall be void and unenforceable.

1917.062. (a) Notwithstanding Section 711, a provision in a shared appreciation loan (not including the refinancing obligation) permitting the lender to accelerate the maturity date of the principal and accrued interest on the loan upon a sale or other transfer of the property, as specified in subdivision (e) of Section 1917.031, shall be valid and enforceable against the borrower, except as may be precluded by Section 2924.6.

(b) The Legislature finds and declares that potential exposure to liability for enforcement of a "due-on-sale" clause consistent with Section 711, as interpreted by the courts, makes use of such a provision impractical. Moreover, the additional risks to the lender inherent in shared appreciation financing are greater with longer loan terms (which are more desirable from the standpoint of housing affordability), but this risk is reduced with an enforceable "due-on-sale" clause. Therefore, in order to facilitate shared appreciation financing, it is necessary to establish the exception specified in subdivision (a).

1917.063. The terms and conditions of each shared appreciation loan made pursuant to this chapter shall conform to the provisions of this chapter, except that nothing in this chapter shall apply to or limit shared appreciation financing made pursuant to other provisions of law or which is not otherwise unlawful.

1917.064. A shared appreciation loan shall not be subject to any provision of this code or the Financial Code which limits the interest rate or change of interest rate of variable, adjustable, or renegotiable interest instruments, or which requires particular language or provisions in security instruments securing variable, adjustable, or renegotiable rate obligations or in evidences of such debts.

This section is declaratory of existing law.

1917.065. The lien of a deed of trust securing a shared appreciation loan shall include and secure the principal amount of the shared appreciation loan, and all interest, whether accrued or to be accrued, including all amounts of contingent deferred interest.

1917.066. The lien of a shared appreciation loan, including the principal amount and all interest, whether accrued or to be accrued, and all amounts of contingent deferred interest, shall attach from the time of the recordation of the deed of trust securing the loan, and the lien, including the lien of the interest accrued or to be accrued and of the contingent deferred interest, shall have priority over any other lien or encumbrance affecting the property secured by the shared appreciation instrument which is recorded after the time of recordation of the shared appreciation instrument. However, nothing in this section or Section 1917.165 shall preclude a junior lien or encumbrance subordinate to the obligation of the shared appreciation loan.

1917.067. Lenders shall be exempt from the usury provisions of Article XV of the California Constitution with respect to shared appreciation loans made pursuant to this chapter.

1917.068. The qualification requirements of Sections 25110, 25120, and 25130 of the Corporations Code shall not apply to a shared appreciation loan, provided (1) the loan obligation is evidenced by one promissory note secured by a deed of trust which is not one of a series of notes secured by interests in the same real property and (2) the loan obligation is not evidenced by fractional undivided interests in one promissory note secured by interests in the same real property.

1917.069. The aggregate amount of any fee charged to the borrower for processing an application and preparing any necessary documents in connection with originating a shared appreciation loan shall not exceed the reasonable cost of providing the service. No prepaid interest shall be charged to the borrower, but nothing in this chapter shall preclude a lender from requiring a fee for providing commitments for shared appreciation loans to builders or others who will not be the ultimate borrower.

Article 7. Notices and Disclosures

1917.070. (a) The disclosures made pursuant to this chapter, as required, shall be the only disclosures required to be made pursuant to state law for shared appreciation loans, notwithstanding any contrary provisions applicable to loans not made under this chapter, except those, if any, that may be required by reason of the application of Division 1 (commencing with Section 25000) of the Corporations Code, or Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code. A lender may, but shall not be required to, supplement the disclosures required by this article with additional disclosures that are not

inconsistent with the disclosures required by this article.

(b) When very specific language is prescribed by this chapter, substantially the same language shall be utilized if possible, but reasonably equivalent language may be used to the extent necessary or appropriate to achieve a clearer or more accurate disclosure.

1917.071. (a) Each lender offering shared appreciation loans shall furnish to a prospective borrower, on the earlier of the date on which the lender first provides written information concerning shared appreciation loans from such lender or provides a loan application form to the prospective borrower, a written disclosure as provided in this section.

(b) The disclosure shall be entitled "INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN," and shall describe the operation and effect of the shared appreciation loan including a brief summary of its terms and conditions, together with a statement consisting of substantially the following language, to the extent applicable to such loan:

INFORMATION ABOUT THE [Name of Lender] SHARED APPRECIATION LOAN

(Name of Lender) is pleased to offer you the opportunity to finance your home through a shared appreciation loan.

Because the shared appreciation loan differs from the usual mortgage loan, the law requires that you should read and understand before you sign the loan documents.

The loan will bear a stated rate of interest which will be one-third below the prevailing market interest rate. In exchange for a stated interest rate which is below the prevailing rate, you will be obligated to pay us additional interest later. This additional interest is called "contingent deferred interest."

Contingent Deferred Interest

This loan provides that you, as borrower, must pay to us, as lender, as contingent deferred interest, one-third of the net appreciated value of the real property which secures the loan. This contingent interest is due and payable when the property is sold or transferred, when the loan is paid in full, upon any acceleration of the loan upon default, or at the end of the term of the loan, whichever first occurs. The dollar amount of contingent interest which you will be required to pay cannot be determined at this time. If the property does not appreciate, you will owe us nothing.

Your obligation to pay contingent interest will reduce the amount of the appreciation, if any, that you will realize on the property. This appreciation will not produce a real gain in your equity in the property, unless the appreciation rate exceeds the general inflation rate, but you will be required to pay a portion of the appreciation as contingent interest without regard to whether the appreciation has

resulted in a real gain.

When you sell or refinance your home, you normally will receive enough cash to pay the shared appreciation loan balance, accrued interest, prepayment penalty (if applicable), the contingent interest, and expenses of sale. However, if you sell with only a small downpayment, you may possibly not receive enough cash to pay the contingent interest, and, in that event, it will be necessary for you to provide cash from other funds.

If you do not sell the property before the end of the term of this loan, you will need to refinance this loan at that time. The term of this loan is (duration) years. We will offer to refinance the outstanding obligation, including any contingent interest, at that time. If you refinance this loan, your monthly payments may increase substantially if the property appreciates significantly or if the interest rate on the refinancing loan is much higher than today's prevailing rates. In general, the more your property appreciated, the larger will be the amount of the contingent interest that you will have an obligation to pay or refinance.

The contingent interest will not become due if title to the property is transferred on your death to a spouse, or where a transfer results from a decree of dissolution of a marriage and a spouse becomes the sole owner.

Calculating the Contingent Interest

Contingent interest will be calculated as follows:

	FAIR MARKET VALUE OF THE PROPERTY (Sale price or amount of value determined by appraisal.)
– (less)	BORROWER'S COST OF THE PROPERTY (This amount includes certain costs paid by you incident to the purchase.)
– (less)	COST OF CAPITAL IMPROVEMENTS MADE BY YOU IN ANY 12-MONTH PERIOD (Must exceed $2,500 in value. The actual amount may be the lesser of actual cost or appraised value.)
_ (equals)	NET APPRECIATED VALUE
× (times)	ONE-THIRD PERCENTAGE OWED TO LENDER
_ (equals)	TOTAL CONTINGENT INTEREST

Determining Net Appreciated Value

We are entitled to receive one-third of the net appreciated value of the property as contingent interest. As explained above, net appreciated value equals (1) the fair market value of the property at the time of the sale or appraisal, less (2) your cost of the property, less (3) the value of any capital improvements for which you are entitled to credit.

Determining Fair Market Value

Fair market value is the sale price of the property in the case of a bona fide sale of the property made before the maturity of the shared appreciation loan, excluding certain foreclosure related sales. In all other cases, fair market value is determined by our most recent annual appraisal of the property. If you desire to contest the amount of our annual appraisal, you may obtain another appraisal by a qualified independent appraiser within 30 days after the anniversary date of the loan and send a copy of the appraisal to us by first-class mail within that 30-day period. If your appraiser's appraisal is lower than our appraisal, the annual appraisal shall equal one-half the sum of the two appraisals.

Determining Value of Capital Improvements

The cost or value of certain capital improvements (but no maintenance or repair costs) may be added to your cost of the property for the purpose of determining the net appreciated value, but only if the procedures set forth in the shared appreciation loan documents are followed. It is important to note that capital improvements completed and for which a credit is claimed in any 12-month period must cost or be appraised at more than two thousand five hundred dollars ($2,500). The lesser of the cost or appraised value will control. However, if you have performed at least half the value of the labor or other work involved, then the appraised value of the improvements will control. The appraised value of the improvements shall be considered to be the increase in the value of the property resulting from the improvements. You will receive no credit for improvements that are not appraised at more than two thousand five hundred dollars ($2,500).

Cost of Appraisals

The terms of this loan call for annual appraisals of the property, and for additional appraisals to value improvements or in the event of a dispute regarding the value of the property or improvements. The cost of the appraisals will be paid as follows:

Your Right to Refinance This Loan

If the property is not sold or transferred prior to the maturity of the loan, we will offer to refinance the outstanding obligation on the loan, including any contingent interest. We will offer refinancing at the then prevailing interest rate either directly or through another mortgage lender.

The terms of the refinancing loan will be like home loans offered at that time by banks or savings and loan associations, but you are assured that at least one of the options will be a fully amortizing 30-year loan. The interest rate on the refinancing loan may be either fixed or adjustable, as provided in your shared appreciation loan.

We will not be permitted to look to the forecast of your income in offering to refinance. The interest rate and monthly payment upon refinancing cannot be determined at this time. They may be either more or less burdensome to you than the currently prevailing rates and terms.

Tax Consequences

Use of the shared appreciation loan will have income tax or estate planning consequences which will depend upon your own financial and tax situation. FOR FURTHER INFORMATION, YOU ARE URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY OR OTHER FINANCIAL ADVISER. THE QUESTIONS YOU SHOULD DISCUSS INCLUDE THE TAX DEDUCTIBILITY OF THE CONTINGENT INTEREST PAYMENT, YOUR RIGHT TO UTILIZE THAT DEDUCTION IN YEARS OTHER THAN THE YEAR IT IS PAID, AND THE EFFECT OF THE LOSS OF TAX BENEFITS BEFORE THAT TIME.

Other Important Information

(Here insert additional description, if necessary, of the operation and effect of the shared appreciation loan.)

The foregoing describes our shared appreciation loan, includes a summary of all of its important provisions, and informs you of some of the risks of a shared appreciation loan..

If your loan application is accepted by us, we will provide you with more information about your particular shared appreciation loan, which will include a comparison with conventional mortgages, an illustration of the possible increase in your monthly payments upon refinancing, and other important information.

Before you enter into a shared appreciation loan with us, we recommend that you and your attorney or tax accountant review the loan documents for the full text of all of the terms and conditions which will govern the loan.

1917.072. (a) Each lender making a shared appreciation loan shall also furnish to the prospective borrower, prior to the

consummation of the loan, the disclosures required by Subpart C of Federal Reserve Board Regulation Z (12 CFR Part 226), including 12 CFR Section 226.18(f), to the extent applicable to the transaction.

(b) The disclosure made pursuant to subdivision (a) and Regulation Z shall be based on the fixed interest rate of the shared appreciation loan, and shall include a description of the shared appreciation feature, including (1) the conditions for its imposition, the time at which it would be collected, and the limitations on the lender's share, as required by the Federal Reserve Board in the information published by the board in 46 Federal Register 20877-78 (April 7, 1981), and (2) the lender's share of the net appreciated value and the prevailing interest rate as defined in Section 1917.120 of the Civil Code.

(c) The disclosure made pursuant to subdivision (a) and Regulation Z shall be accompanied by (1) one or more transaction-specific examples of the operation and effect of the shared appreciation loan and (2) the following charts comparing the shared appreciation loan and a conventional loan made at the prevailing interest rate, and illustrating the possible increase in the monthly payments, and the possible annual percentage rate of finance charge, on the assumptions therein stated:

Chart 1

CONVENTIONAL MORTGAGE AT ___%
If the same loan balance were financed under a conventional, 30-year, fixed-rate, level-payment mortgage, your monthly payments would be:
Years 1–30
$_____/mo.

Chart 2

IF YOU REFINANCE THIS TRANSACTION AT __%	
If your property appreciates at 10% per year, and if your loan balance (including contingent deferred interest due) at the end of ____ years is refinanced at __% (the prevailing market interest rate now), your monthly payments will be:	
Years 1–__	Refinancing loan
$_____/mo.	$_____/mo.*

* Refinancing loan, assuming a conventional 30-year, fixed-rate, level-payment mortgage. Other mortgage instruments, e.g., graduated-payment or shared-appreciation, if available, may result in lower payments.

Chart 3

APR IF PROPERTY APPRECIATES AT 10%
If your property appreciates at 10% per year, the total finance charge on your shared appreciation loan (including contingent interest) will equal $____, and the annual percentage rate of the total finance charge (including contingent interest) will equal ____%.

(d) The disclosures required by paragraph (c) shall be separated from the disclosures required by Regulation Z, and may be presented in the document containing the disclosures required by Regulation Z or in one or more separate documents.

(e) Except to the extent that this section requires disclosure of additional information not required by Regulation Z, compliance with the applicable credit disclosure requirements of Regulation Z shall constitute compliance with the requirements of this section.

(f) The disclosures prescribed in Section 1917.171 shall be physically attached to the disclosures required by this section and Regulation Z at the time such disclosures are furnished to the borrower.

(g) In the event federal law is amended so that this section is inconsistent therewith, the federal law shall prevail as to the disclosures required by this section.

1917.073. Each lender making a shared appreciation loan shall additionally furnish to the prospective borrower, prior to the consummation of the loan, a statement containing the following information:

IMPORTANT INFORMATION ABOUT YOUR SHARED APPRECIATION LOAN

You are being offered a shared appreciation loan. Before you decide to accept this loan read this statement, which is designed to provide important information that you should consider.

1. Prevailing interest rate: ____%.
2. Fixed interest rate on this loan: ____%.
3. Lender's share of net appreciated value: one-third.
4. Amount of this loan: $____.
5. Amount of the monthly payments: $____.
6. Term of this loan: ____ years.
7. Amortization period on which payments are calculated: 30

years.

8. Prepayment penalty (if any) ——.

1917.074. Each deed of trust and evidence of debt executed in connection with a shared appreciation loan shall contain a statement, printed or written in a size equal to at least 12-point bold type, consisting of substantially the following language: "THIS IS A [DURATION] SHARED APPRECIATION LOAN. THE LENDER'S INTEREST INCLUDES ONE-THIRD OF THE NET APPRECIATED VALUE OF THE PROPERTY. FOR FURTHER INFORMATION, READ THE FLYER 'INFORMATION ABOUT THE [NAME OF LENDER] SHARED APPRECIATION LOAN.'" The notice required by this section shall be completed to state the term of the shared appreciation loan.

1917.075. Where, pursuant to any provision of law, the lender is required to disclose the amount of interest due or to be due under a shared appreciation loan and the amount of contingent deferred interest due or to be due is not known, the lender may disclose that fact and specify in the disclosure the method for calculating contingent deferred interest.

SEC. 11.5. Chapter 4 (commencing with Section 1917.010) of Title 4 of Part 4 of Division 3 of the Civil Code shall become inoperative on January 1, 1990, and shall have no force or effect on or after that date, except that Chapter 4 shall continue to apply to any shared appreciation loan entered into prior to January 1, 1990.

SEC. 12. Chapter 5 (commencing with Section 1917.110) is added to Title 4 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 5. SHARED APPRECIATION LOANS

Article 1. Legislative Findings and Declarations

1917.110. The Legislature hereby finds and declares that:

(a) It is necessary and essential that the state provide and promote alternative means of supplying affordable housing to the citizens of the state.

(b) Because of current economic conditions, including the unprecedented fluctuation in interest rates, alternative mortgage instruments must be developed to supplement the standard long-term, fixed-rate mortgage.

(c) State facilitation of the shared appreciation loan will serve the need to develop alternative means of financing housing, particularly new homes, and will help to create vitally needed jobs in the construction industry.

Article 2. Definitions

1917.120. For purposes of this chapter:

(a) "Borrower" means the recipient or recipients of a shared appreciation loan and includes any successor in interest to the

borrower under a shared appreciation loan, to the extent such succession is permitted by law or by the terms of the shared appreciation loan.

(b) "Borrower's cost of the property" means the price paid by the borrower for the purchase of the property to be financed with a shared appreciation loan and also includes documentary transfer taxes, escrow and recording fees, title insurance premiums, and any other fees directly paid by the borrower as a necessary or customary cost of consummating acquisition of the property. However, if the purchase price to be paid for the property does not reasonably reflect the true value of the property, the borrower may request that, in lieu of the actual price paid, the "borrower's cost of the property" be established at an amount mutually agreed by the lender and borrower or be established by averaging two appraisals in the same manner as specified in Section 1917.142 for determination of fair market value. Nothing in this subdivision shall be construed to require a lender to make shared appreciation loans with the borrower's cost of the property established on the basis of appraisals.

(c) "Contingent deferred interest" means the lender's share of net appreciated value, calculated as the sum resulting upon multiplying the net appreciated value by a percentage agreed by the lender and borrower, not to exceed 50 percent.

(d) "Fair market value" means the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

Fair market value shall be determined pursuant to Article 4 (commencing with Section 1917.140).

(e) "Lender" means any person who makes a shared appreciation loan or the successor in interest to any such person.

(f) "Net appreciated value" means the fair market value less the sum of the borrower's cost of the property and the value of capital improvements. Nothing in this chapter shall, however, preclude a shared appreciation loan from additionally including a provision requiring deduction of any or all of the borrower's costs of selling the property from fair market value in determining, "net appreciated value," and if such a provision is included, the disclosures required by Section 1917.171 shall be modified accordingly.

(g) "Prevailing rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market system auction for four-month conventional mortgage commitments. In the event that the Federal National Mortgage Association discontinues or substantially alters its free market system auction for conventional mortgages then the "prevailing rate" shall be the average yield established at the most recent immediate delivery auction of the Federal Home Loan Mortgage Corporation,

or if the auction has been discontinued, then the "prevailing rate" shall be specified in the shared appreciation loan as either (1) the most recently published Federal Home Loan Bank Board mortgage contract rate or (2) the average single-family home mortgage rate for the 10 largest savings and loan associations with principal offices in this state.

(h) "Property" means the property financed by the shared appreciation loan.

(i) "Sale" means any transfer of title to the property and additionally includes the execution of an installment sale contract giving the purchaser a right to possess the property before transfer of title, refinancing, judicial sale on execution or other legal process of foreclosure or trustee's sale (regardless of whether initiated by the lender), but "sale" does not include a transfer specified in Section 2924.6.

(j) "Shared appreciation loan" means any loan made pursuant to this chapter upon the security of owner-occupied real property of a type specified in Section 1917.130, and in connection with which the lender has a right to receive a share of the appreciation in the value of the security property. "Shared appreciation loan" includes a deed of trust and any evidence of debt issued in connection with the loan.

(k) "Value of capital improvements" means the amount of the credit or credits for capital improvements, if any, determined pursuant to Article 5 (commencing with Section 1917.150).

Article 3. Terms and Conditions

1917.130. Lenders may make shared appreciation loans pursuant to this chapter for the purchase of real property improved with one- to four-dwelling units, including structures ancillary to such dwelling units and including attached single-family dwelling units, single-family mobilehome units placed upon permanent foundations, residential condominium units, and dwelling units within a planned unit development. Shared appreciation loans shall be made to finance only owner-occupied dwelling units, but in the case of two- to four-unit dwellings financed under this chapter only one of the units need be owner-occupied. A dwelling unit shall be conclusively deemed to be owner-occupied for purposes of this chapter if an original recipient of the shared appreciation loan certifies in writing to the lender at the time the loan is made that he or she will occupy the property.

1917.131. A shared appreciation loan shall include the following terms and conditions:

(a) The term of the loan, excluding any refinancing under Section 1917.133, shall be at least seven years, but not more than 30 years.

(b) The repayment schedule for the loan, excluding any refinancing under Section 1917.133, shall be cast so that full amortization of the principal amount of the loan would occur in not less than 30 nor more than 40 years, regardless of the actual term of

the loan. Any principal balance remaining at maturity shall be due and payable at that time, unless refinanced as provided in Section 1917.133. Monthly installment payments shall be equal in amount, except for the final payment when a principal balance is remaining at maturity, and in addition to amortization of principal shall include fixed interest pursuant to subdivision (d).

(c) The loan shall be secured by a deed of trust on the real property financed.

(d) The loan shall bear interest at a fixed rate, which shall be established in relation to the prevailing rate (1) in effect 90 days prior to the loan closing, (2) in effect at another date between that date and the loan closing if and as mutually agreed by the lender and borrower, or (3) in effect at the time of the lender's loan commitment given to the borrower or to the person from whom the borrower purchases the property. The percentage by which the fixed interest rate is reduced below the applicable prevailing rate shall be at least one-half the lender's percentage share of net appreciated value which is contingent deferred interest, except that if the shared appreciation loan is for less than 80 percent of the borrower's purchase price of the property, the percentage by which the fixed interest rate is reduced below the applicable prevailing rate shall be at least two-thirds the lender's percentage share of net appreciated value which is contingent deferred interest.

(e) The borrower shall additionally be obligated to pay to the lender contingent deferred interest (1) at the time of sale of the property if the lender accelerates the principal balance of the loan in accordance with a provision in the shared appreciation loan authorized by Section 1917.162, (2) at the time the loan is prepaid in full, upon acceleration of the loan upon default, or (3) upon the maturity of the loan, whichever first occurs.

(f) The aggregate amount of any fee charged to the borrower by the lender for processing an application, preparing any necessary documents, obtaining a credit report, or any other costs incurred by the lender in connection with originating a shared appreciation loan shall not exceed two percent of the principal amount of the loan or five hundred dollars ($500), whichever is greater. No prepaid interest shall be charged to the borrower, but nothing in this chapter shall preclude a lender from requiring a fee for providing commitments for shared appreciation loans to builders or others who purchase such commitments and who will not be the ultimate borrower.

1917.132. (a) The borrower shall have the right to prepay, at any time, in full or in part, the principal loan balance of the shared appreciation loan, together with accrued interest, including contingent deferred interest.

(b) Nothing in this chapter shall prevent a borrower from obligating himself or herself, by an agreement in writing, to pay a prepayment charge upon prepayment of the loan, in full or in part, made within five years of the date of execution of the shared

appreciation loan.

(c) Any prepayment charge imposed upon the prepayment of a shared appreciation loan shall not exceed the amount authorized and specified in subdivision (b) of Section 2954.9.

(d) No prepayment charge shall be imposed as to any portion of the contingent deferred interest.

1917.133. (a) If a shared appreciation loan with an original term of less than 10 years is not prepaid in full or the property is not sold or transferred prior to maturity of the loan, and provided the borrower is not then in default, the lender shall offer or arrange for refinancing of the unpaid balance of the loan upon maturity and all contingent deferred interest. The refinancing may be provided directly by the lender or another mortgage lender, or the lender may arrange at the time of making the shared appreciation loan for the refinancing to be provided by a federally or state chartered bank or savings and loan association doing business in this state or by a qualified mortgage banker. As used in this section "qualified mortgage banker" means a lender (1) meeting the criteria established by the Government National Mortgage Association for lenders selling over ten million dollars ($10,000,000) in mortgage loans to that organization annually and (2) which either has conducted an ongoing business of mortgage lending in this state for not less than five years immediately preceding the making of the shared appreciation loans, or made over fifty million dollars ($50,000,000) in mortgage loans in this state during the 12 months immediately preceding the making of the shared appreciation loan. If a refinancing commitment is arranged by the lender upon origination of the shared appreciation loan, this fact shall be fully and fairly disclosed to the borrower, a copy of the lender's contract with the bank, savings and loan association or qualified mortgage banker making the commitment shall be supplied to the borrower at such time, and the contract shall be fully enforceable by the borrower as a third-party beneficiary thereto, but the lender shall not be a guarantor of the obligation of the bank, savings and loan association, or qualified mortgage banker to provide refinancing.

If the original lender is a bank or savings and loan association doing business in this state or a qualified mortgage banker, it may provide the refinancing commitment to the borrower required by this section and assignees or successors in interest of the original lender shall not be guarantors of the refinancing obligation, provided the shared appreciation loan contains this limitation, which is fully and fairly disclosed to the borrower, and the original lender's refinancing commitment is fully enforceable by the borrower.

(b) The term of the loan for refinancing shall be established so that the borrower's repayment schedule provides for the final installment payment not less than 30 years from the date of origination of the shared appreciation loan. However, if loans at that duration are not available, within the meaning of subdivision (d), the lender or other obligor shall give the borrower a choice of any form

of loan and maturity for that type of loan which is available at the time of refinancing, within the meaning of subdivision (d). The lender or other obligor shall inform the borrower of the types of loans (and maturities) available for refinancing under this section not less than 60 days prior to maturity of the shared appreciation loan.

(c) The interest rate for the refinancing loan shall not exceed rates generally available in the market for the type of loan instrument provided under subdivision (d) at the time of maturity of the shared appreciation loan. No loan origination fees shall be required of the borrower, either as prepaid interest or for processing services, as a condition of obtaining a refinancing loan pursuant to this section, but the borrower may be required to pay the costs of obtaining a policy of title insurance in accordance with the lender's requirements. The refinancing loan need not be a fixed interest rate loan, subject to the limitations of subdivision (d).

(d) The refinancing loan may be any form of loan which, at the time of refinancing, is generally offered to and utilized by the public for financing housing like the borrower's property by banks or savings and loan associations doing business in this state.

(e) The lender may require as a condition of the refinancing loan that it be secured by a deed of trust having a lien of first priority.

1917.134. Except as provided in this article, the terms and conditions of the refinancing loan shall be subject to all laws applicable to loans in effect on the date of refinancing.

1917.135. Nothing in this chapter shall preclude the borrower from obtaining any other financing, in lieu of the refinancing provided for in Section 1917.133, including refinancing on other terms mutually agreeable to the borrower and lender.

Article 4. Determination of Fair Market Value

1917.140. The borrower may, at any time for the purpose of facilitating a sale of the property, request the lender to stipulate the minimum amount which the lender considers to be the fair market value of the property for the purposes of this chapter. The lender shall advise the borrower within 10 working days of the receipt of such request of the lender's estimate of the minimum fair market value. The estimate shall remain effective for purposes of this section for 90 days. For the purposes of this section and Section 1917.141, a sale of the property shall be deemed to have occurred within the 90-day period if there is a valid contract entered by an offer and acceptance within the 90-day period for the sale of the property. The lender's stipulation shall remain effective for an additional 60 days following execution of the sale contract to permit completion of the sale and close of escrow.

The lender shall not be liable to the borrower or any other party on account of damages alleged as a result of providing the stipulation or estimate required by this section if such stipulation or estimate is made in good faith. Evidence of lack of good faith shall include, but

not be limited to, a showing that the lender has willfully or repeatedly overrepresented the fair market value of other properties in similar situations, applying equitable principles to those determinations. The lender shall be conclusively presumed to have acted in good faith and no action may be brought or maintained against a lender which arises out of the provision by the lender of such stipulation or estimate, if the lender relied upon an appraisal of an independent appraiser approved by the Federal National Mortgage Association.

1917.141. (a) In the case of a sale for cash within 90 days after the lender stipulates, under the provisions of Section 1917.140, a minimum amount which the lender considers to be the fair market value of the property, the fair market value shall be the gross sale price, unless the gross sales price is below the minimum amount stipulated by the lender and the lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.142.

(b) In the case of a sale for cash where the borrower has not requested the lender under the provisions of Section 1917.140 to stipulate to the minimum amount which the lender considers to be the fair market value of the property or where the stipulated minimum amount was provided by the lender more than 90 days prior to the date of sale, fair market value shall be the gross sale price, unless lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.142.

(c) In the case of a sale which includes consideration to the seller other than cash, fair market value shall be as determined under Section 1917.142.

(d) In the case the shared appreciation loan is prepaid in full, or upon acceleration of the shared appreciation loan upon default, or upon maturity of the shared appreciation loan, fair market value shall be as determined under Section 1917.142.

1917.142. When Section 1917.141 requires the application of this section, the fair market value shall be determined as the average of two appraisals of the property performed as described in this section. If possible, the appraisals shall be based on the sale prices of comparable properties in the market area sold within the preceding three-month period. The appraisals shall be made upon request of the lender by two independent residential appraisers, one to be selected by the lender and one by the borrower. Each appraiser shall be approved by the Federal National Mortgage Association. The cost of the appraiser selected by the lender shall be borne by the lender, and the cost of the appraiser selected by the borrower shall be borne

by the borrower, unless the average of the two appraisals equals or is less than the gross sale price of the property, in which case the lender shall also pay the fee of the borrower's appraiser up to two hundred dollars ($200). If either of the appraisers determines that the gross sale price does not reasonably reflect the fair market value of the property, or, in the case of a sale for which appraisal is required by this section, then the fair market value of the property shall be determined as the average of the two appraisals. If the borrower fails to select a qualified appraiser within 15 days after the lender has notified the borrower in writing of the lender's request for an appraisal of the property, the reasons therefor, and the borrower's option to select an independent appraiser within 15 days after the lender's request is submitted to the borrower, the lender may designate the second appraiser, provided the lender's request informs the borrower of this time limitation, and that the lender will select an appraiser on behalf of the borrower in the event the borrower fails to designate an appraiser, with consequent cost to the borrower. If pursuant to this section the lender designates the second appraiser, the cost of both appraisals shall be borne equally by the borrower and lender. If in any case the property has been damaged (other than normal wear and tear) and the damage has not been fully repaired, the determination of fair market value shall be based on the condition of the property not including the damage.

Nothing in this section shall preclude the borrower and lender from establishing the fair market value of the property by mutual agreement in lieu of appraisals pursuant to this section.

Article 5. Improvements

1917.150. The borrower may have the value of capital improvements added to the borrower's cost of the property, for purposes of determining net appreciated value and the amount of contingent deferred interest, but only if the procedures set forth in this article are followed.

(a) Within 60 days following the completion of capital improvements during any 12-month period with a cost in excess of two thousand five hundred dollars ($2,500), the borrower shall send by first-class mail a notice of the completion of the improvements to the lender and shall submit proof of cost and an estimate of the increase in value of the property by reason of the improvements.

(b) If, within 30 days of receipt of the notice, the lender questions the claimed increase in value of the property by reason of the improvements, the lender and the borrower may, by mutual agreement, establish the value of the capital improvements or the lender may require appraisal of the property. An appraisal shall be made to determine the increase in value of the property, if any, by reason of the improvements, by two appraisers selected in the same manner specified in Section 1917.142. If appraisals are performed, the increase in value resulting from the improvements for the purposes

of this section, shall be one-half of the sum of the two appraisals. The cost of the appraiser selected by the borrower shall be borne by the borrower, and the cost of the appraiser selected by the lender shall be borne by the lender.

(c) A credit for the value of capital improvements shall be provided if the increase in value of the property resulting therefrom is determined pursuant to subdivision (b) to exceed two thousand five hundred dollars ($2,500).

(d) If 50 percent or more of the value of the labor or other work on the improvements was performed by the borrower, then the actual cost of the improvements need not exceed two thousand five hundred dollars ($2,500) for purposes of making application under subdivision (a).

1917.151. Nothing in this article shall preclude a shared appreciation loan from providing the borrower with a greater credit for improvements than specified in this article, provided the relevant disclosures required by Article 7 (commencing with Section 1917.170) are appropriately modified to accurately disclose the terms of the credit.

Article 6. General Provisions

1917.160. The relationship of the borrower and the lender, as to a shared appreciation loan, is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership, or other relationship.

1917.161. Any waiver of any right of a borrower under the provisions of this chapter shall be void and unenforceable.

1917.162. (a) Notwithstanding Section 711, a provision in a shared appreciation loan made pursuant to this chapter permitting the lender to accelerate the maturity date of the principal and accrued interest on the loan upon sale of the property shall be valid and enforceable against the borrower, except as may be precluded by Section 2924.6.

(b) The Legislature finds and declares that potential exposure to liability for enforcement of a "due-on-sale" clause consistent with Section 711, as interpreted by the courts, makes use of such a provision impractical. Moreover, the additional risks to the lender inherent in shared appreciation financing are greater with longer loan terms (which are more desirable from the standpoint of housing affordability), but this risk is reduced with an enforceable "due-on-sale" clause. Therefore, in order to facilitate shared appreciation financing, it is necessary to establish the exception specified in subdivision (a).

1917.163. This chapter facilitates the making of shared appreciation financing in this state which conforms to the provisions of this chapter. The terms and conditions of any shared appreciation loan made pursuant to this chapter shall be consistent with this chapter. This chapter does not, however, apply to or limit shared

appreciation financing of real property of a type specified in Section 1917.130 that is made pursuant to other provisions of law, or which is not otherwise unlawful. Nothing in this chapter shall be construed to in any way affect shared appreciation financing of commercial property or residential property not meeting the criteria specified in Section 1917.130.

1917.164. A shared appreciation loan shall not be subject to any provision of this code or the Financial Code which limits the interest rate or change of interest rate of variable interest rate or renegotiable interest instruments, or which requires particular language or provisions in security instruments securing variable or renegotiable rate obligations or in evidences of those debts.

This section is declaratory of existing law.

1917.165. The lien of a deed of trust securing a shared appreciation loan shall include and secure the principal amount of the shared appreciation loan, and all interest, whether accrued or to be accrued, including all amounts of contingent deferred interest.

1917.166. The lien of a shared appreciation loan, including the principal amount and all interest, whether accrued or to be accrued, and all amounts of contingent deferred interest, shall attach from the time of the recordation of the deed of trust securing the loan, and the lien, including the lien of the interest accrued or to be accrued and of the contingent deferred interest, shall have priority over any other lien or encumbrance affecting the property secured by the shared appreciation instrument, recorded after the time of recordation of the shared appreciation instrument. However, nothing in this section or Section 1917.165 shall preclude a junior lien or encumbrance subordinate to the obligation of the shared appreciation loan. In no case may a junior lien achieve priority over the lien securing the obligation of the shared appreciation loan, provided that nothing in this section shall be construed to supersede Section 3134 of the Civil Code.

1917.167. A shared appreciation loan which at origination bears a fixed interest rate complying with the usury provisions of Article XV of the California Constitution shall not be deemed to become usurious by reason of the payment of contingent deferred interest pursuant to this chapter.

1917.168. The qualification requirements of Sections 25110, 25120, and 25130 of the Corporations Code do not apply to a shared appreciation loan to the extent the exemption afforded by subdivision (p) of Section 25100 of that code is applicable.

Article 7. Notices and Disclosures

1917.170. (a) The disclosures made pursuant to this chapter, as required, shall be the only disclosures required to be made pursuant to state law for shared appreciation loans, notwithstanding any contrary provision applicable to loans not made under this chapter, except those, if any, that may be required by reason of the

application of Division 1 (commencing with Section 25000) of the Corporations Code, or Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code. However, a lender shall not be precluded from supplementing the disclosures required by this chapter with additional disclosures that are not inconsistent with the disclosures required by this chapter.

(b) Whenever specific language is prescribed by this chapter, substantially the same language shall be utilized if possible, but reasonably equivalent language may be used to the extent necessary or appropriate to achieve a clearer or more accurate disclosure.

1917.171. (a) Each lender offering shared appreciation loans shall furnish to a prospective borrower, on the earlier of the dates on which the lender first provides written information concerning shared appreciation loans from the lender or provides a loan application form to the prospective borrower, a written disclosure as provided in this section.

(b) The disclosure shall be entitled "INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN," and shall describe the operation and effect of the shared appreciation loan including a brief summary of its terms and conditions, together with a statement consisting of substantially the following language, to the extent applicable to such loan:

INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN

(Name of Lender) is pleased to offer you the opportunity to finance your home through a shared appreciation loan.

Because the shared appreciation loan differs from the usual mortgage loan, the law requires that you have a detailed explanation of the special features of the loan before you apply. Before you sign your particular shared appreciation loan documents, you will receive more information about your particular shared appreciation loan, which you should read and understand before you sign the loan documents.

The loan will bear a stated rate of interest which will be (percent) below the prevailing market interest rate. In exchange for a stated interest rate which is below the prevailing rate, you will be obligated to pay us additional interest later. This additional interest is called "contingent interest."

The loan will require a balloon payment at the end of the _____ year. Thus, if you do not sell the property before that time, you will need to refinance the loan at that time.

Contingent Interest

This loan provides that you, as borrower, must pay to us, as lender, as contingent interest, (percent) of the net appreciated value of the real property which secures the loan. This contingent interest is due

and payable when the property is sold or transferred, when the loan is paid in full, upon any acceleration of the loan upon default, or at the end of the term of the loan, whichever first occurs. The dollar amount of contingent interest, if any, which you will be required to pay cannot be determined at this time. If the property does not appreciate, you will owe us nothing. The contingent interest will not become due if title to the property is transferred on your death to a spouse, or where a transfer results from a decree of dissolution of a marriage and a spouse becomes the sole owner.

Your obligation to pay contingent interest will reduce the amount of the appreciation, if any, that you will realize on the property. This appreciation will not produce a real gain in your equity in the property, unless the appreciation rate exceeds the general inflation rate, but you will be required to pay a portion of the appreciation as contingent interest without regard to whether the appreciation has resulted in a real gain.

When you sell or refinance your home, you normally will receive enough cash to pay the shared appreciation loan balance, accrued interest, prepayment charge (if applicable), contingent interest, and expenses of sale. However, if you sell with only a small downpayment, you may possibly not receive enough cash to pay the contingent interest, and, in that event, it will be necessary for you to provide cash from other funds.

Calculating the Contingent Interest

Contingent interest will be calculated as follows:

	FAIR MARKET VALUE OF THE PROPERTY (Sale price or appraised value.)
– (less)	BORROWER'S COST OF THE PROPERTY (This amount includes certain costs paid by you incident to the purchase.)
– (less)	VALUE OF CAPITAL IMPROVEMENTS MADE BY YOU (Must exceed $2,500 in value. Must also exceed $2,500 in cost unless you perform more than 50% of the value of the labor or work on the improvement.)
__ (equals)	NET APPRECIATED VALUE
× (times)	_____ PERCENT OWED TO LENDER
__ (equals)	TOTAL CONTINGENT INTEREST

Determining Fair Market Value

If you sell your property for cash before maturity of your shared appreciation loan, the gross sale price will be the fair market value of the property, unless appraisals are requested by us and the appraisals average more than the gross sale price. However, at your request, we also will tell you what we consider to be the fair market value of the property. If you sell for cash for a gross sale price that equals or exceeds that amount, the gross sale price will control and appraisals will not be needed.

Fair market value is determined by appraisals in the event of sales involving a consideration other than cash, prepayment of the loan in full, or maturity of the loan.

When appraisals are required, fair market value is determined by averaging two independent appraisals of the property. You may select one of the two appraisers from a list approved by the Federal National Mortgage Association. If appraisals are requested by us, we will provide you with full information on how to select an appraiser.

In lieu of appraisals, we may establish fair market value at an agreed amount if an agreement can be reached between you and us.

Determining Value of Capital Improvements

Capital improvements with a value exceeding $2,500 (but no maintenance or repair costs) may be added to your cost of the property for the purpose of determining the net appreciated value, but only if the procedures set forth in the shared appreciation loan documents are followed. It is important to note that capital improvements completed and claimed in any 12-month period must add more than $2,500 in value to the property and must generally also cost more than $2,500. However, if you have performed at least half the value of the labor or other work involved, then the cost of the improvements will not be considered. The appraised value of the improvements will be the increase in the value of the property resulting from the improvements. You will receive no credit for minor or major repairs or for improvements that are not appraised at more than $2,500, but the lender will acquire a share of any resulting appreciation in the value of the property.

Determining Net Appreciated Value

We are entitled to receive ____ percent of the net appreciated value of the property as contingent interest. As shown in the chart above, net appreciated value equals (1) the fair market value of the property at the time of the sale or appraisal, less (2) your cost of the property, less (3) the value of any capital improvements for which you are entitled to credit.

Balloon Payment of Principal

If you do not sell the property before the end of the term of this loan, you will need to refinance this loan at that time. The term of this loan is (duration) years. We [are not obligated to refinance either the unpaid balance of the loan or the contingent interest at that time; you alone will be responsible for obtaining refinancing] [will offer or arrange with another lender to refinance the outstanding obligation, including any contingent interest, at that time]. If you refinance this loan, your monthly payments may increase substantially if the property appreciates significantly or if the interest rate on the refinancing loan is much higher than today's prevailing rates. In general, the more your property appreciates, the larger will be the amount of the contingent interest that you will have an obligation to pay or refinance.

Your Right to Refinance This Loan

(For loans with a refinancing obligation)

If the property is not sold or transferred prior to the maturity of the loan, we will offer or arrange with another lender to refinance the outstanding obligation of the loan, including any contingent interest. The refinancing will be at the then prevailing interest rate.

The terms of the refinancing loan will be like those of home loans offered at that time by banks or savings and loan associations. If at the time of refinancing, banks or savings and loan associations in this state offer loans of sufficient duration, you are assured that the combined length of your shared appreciation loan and refinancing loan will be at least 30 years. However, if loans of sufficient duration are not then offered by banks or savings and loan associations, you may elect any type and maturity of loan then offered by banks or savings and loan associations.

We will not be permitted to look to the forecast of your income in offering or arranging for your refinancing loan. The interest rate and specific terms of any refinancing loan will be subject to then-prevailing market conditions. The interest rate and monthly payment upon refinancing cannot be determined at this time. They may be either more or less burdensome to you than the currently prevailing rates and terms.

Tax Consequences

(For all loans)

USE OF THE SHARED APPRECIATION LOAN WILL HAVE INCOME TAX OR ESTATE PLANNING CONSEQUENCES WHICH WILL DEPEND UPON YOUR OWN FINANCIAL AND TAX SITUATION. FOR FURTHER INFORMATION, YOU ARE

URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY, OR OTHER FINANCIAL ADVISOR.

THE QUESTIONS YOU SHOULD DISCUSS INCLUDE THE TAX DEDUCTIBILITY OF THE CONTINGENT INTEREST PAYMENT, YOUR RIGHT TO UTILIZE THAT DEDUCTION IN YEARS OTHER THAN THE YEAR IT IS PAID, AND THE EFFECT OF THE LOSS OF TAX BENEFITS BEFORE THAT TIME.

Other Important Information

(Here insert additional description, if necessary, of the operation and effect of the shared appreciation loan.)

The foregoing describes our shared appreciation loan, includes a summary of all of its important provisions, and informs you of some of the risks of a shared appreciation loan.

If your loan application is accepted by us, we will provide you with more information about your particular shared appreciation loan, which will include a comparison with conventional mortgages, an illustration of the possible increase in your monthly payments upon refinancing, and other important information.

Before you enter into a shared appreciation loan with us, we recommend that you and your attorney or tax accountant review the loan documents for the full text of all of the terms and conditions which will govern the loan.

1917.172. (a) Each lender making a shared appreciation loan shall also furnish to the prospective borrower, prior to the consummation of the loan, the disclosures required by Subpart C of Federal Reserve Board Regulation Z (12 CFR Part 226), including 12 CFR Section 226.18(f), to the extent applicable to the transaction.

(b) The disclosure made pursuant to subdivision (a) and Regulation Z shall be based on the fixed interest rate of the shared appreciation loan, and shall include a description of the shared appreciation feature, including (1) the conditions for its imposition, the time at which it would be collected, and the limitations on the lender's share, as required by the Federal Reserve Board in the information published by the board in 46 Federal Register 20877-78 (April 7, 1981), and (2) the lender's share of the net appreciated value and the prevailing interest rate as defined in Section 1917.120 of the Civil Code.

(c) The disclosure made pursuant to subdivision (a) and Regulation Z shall be accompanied by (1) one or more transaction-specific examples of the operation and effect of the shared appreciation loan and (2) the following charts comparing the shared appreciation loan and a conventional loan made at the prevailing interest rate, and illustrating the possible increase in the monthly payments, and the possible annual percentage rate of finance charge, on the assumptions therein stated:

Chart 1

CONVENTIONAL MORTGAGE AT ___%
If the same loan balance were financed under a conventional, 30-year, fixed-rate, level-payment mortgage, your monthly payments would be:
Years 1–30
$_____/mo.

Chart 2

IF YOU REFINANCE THIS TRANSACTION AT __%	
If your property appreciates at 10% per year, and if your loan balance (including contingent interest due) at the end of ____ years is refinanced at __% (the prevailing market interest rate now), your monthly payments will be:	
Years 1–__	Refinancing loan
$_____/mo.	$_____/mo.*

* Refinancing loan, assuming a conventional 30-year, fixed-rate, level-payment mortgage. Other mortgage instruments, e.g., graduated-payment or shared-appreciation, if available, may result in lower payments.

Chart 3

APR IF PROPERTY APPRECIATES AT 10%
If your property appreciates at 10% per year, the total finance charge on your shared appreciation loan (including contingent interest) will equal $____, and the annual percentage rate of the total finance charge (including contingent interest) will equal ____%.

(d) The disclosures required by subdivision (c) shall be separate from the disclosures required by Regulation Z, and may be presented in the document containing the disclosures required by Regulation

Z or in one or more separate documents.

(e) Except to the extent that this section requires disclosure of additional information not required by Regulation Z, compliance with the applicable credit disclosure requirements of Regulation Z shall constitute compliance with the requirements of this section.

(f) The disclosure prescribed in Section 1917.171 shall be physically attached to the disclosures required by this section and Regulation Z at the time the Regulation Z disclosures are furnished to the borrower.

(g) In the event federal law is amended so that this section is inconsistent therewith, the federal law shall prevail as to the disclosures required by this section.

1917.173. Each lender making a shared appreciation loan shall additionally furnish to the prospective borrower, prior to consummation of the loan, a statement containing the following information:

IMPORTANT INFORMATION ABOUT YOUR SHARED APPRECIATION LOAN

You are being offered a shared appreciation loan. Before you decide to accept this loan, read this statement, which is designed to provide important information you should consider.

1. Prevailing interest rate: ____%.
2. Interest rate on this loan: ____%.
3. Lender's share of net appreciated value: ____%.
4. Amount of this loan: $____.
5. Amount of the monthly payments: $____.
6. Term of this loan: ____ years.
7. Amortization period on which payments are calculated: ____ years.
8. Prepayment charge (if any): ____.

1917.174. Each deed of trust and evidence of debt executed in connection with a shared appreciation loan shall contain a statement, printed or written in a size equal to at least 12-point bold type, consisting of substantially the following language: "THIS IS A [DURATION] SHARED APPRECIATION LOAN. THE LENDER'S INTEREST INCLUDES [PERCENT] OF THE NET APPRECIATED VALUE OF THE PROPERTY. A BALLOON PAYMENT OF PRINCIPAL WILL BE REQUIRED. FOR FURTHER INFORMATION, READ THE FLYER ENTITLED 'INFORMATION ABOUT THE [NAME OF LENDER] SHARED APPRECIATION LOAN.'" The notice required by this section shall be completed to state the terms of the shared appreciation loan and the lender's share of the net appreciated value.

1917.175. Where, pursuant to any provision of law, the lender is required to disclose the amount of interest due or to be due under a shared appreciation loan and the amount of contingent deferred interest due or to be due is not known, the lender may disclose that

fact and specify in the disclosure the method for calculating contingent deferred interest.

SEC. 12.5. Chapter 5 (commencing with Section 1917.110) of Title 4 of Part 4 of Division 3 of the Civil Code shall become inoperative on January 1, 1987, and shall have no force or effect on or after that date, except that Chapter 5 shall continue to apply to any shared appreciation loan entered into pursuant to its provisions prior to January 1, 1987.

SEC. 13. The heading of Chapter 4 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of the Civil Code, as added by Section 4 of Chapter 1079 of the Statutes of 1981) is amended and renumbered to read:

CHAPTER 6. MORTGAGE LOANS

SEC. 14. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court shall have original jurisdiction in any of the following civil cases and proceedings:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts shall have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In any of the following proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal

property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver in aid of execution as provided in subdivision 4 of Section 564; to charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by the court in the manner provided in Section 15028 of the Corporations Code, or any amendment thereof, and in those cases to appoint a receiver and to make any order or perform any act mentioned or authorized in that section; in proceedings under Section 689, or any amendments thereof, to determine title to personal property seized in an action pending in, or upon execution issued by, such court.

(9) In all actions under Section 720 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(b) Each municipal and justice court shall have jurisdiction of any of the following cases in equity:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of that municipal or justice

court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 15. Section 12032 of the Education Code is amended to read:

12032. The State Board of Education is designated as the state educational agency to carry out the purposes and the provisions of these acts of Congress. The State Board of Education is hereby vested with authority to prepare and submit to the United States Commissioner of Education any state plan required by these acts of Congress, to prepare and submit amendments to the state plans, and to administer the state plans or amendments thereto, in accordance with these acts of Congress and any rules and regulations adopted thereunder. The State Board of Education is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of these acts of Congress and the rules and regulations adopted thereunder.

SEC. 16. Section 15528 of the Education Code is amended to read:

15528. In addition to the powers granted the board under this chapter, the board shall have authority (1) to make apportionments to districts for the purchase of sites only, or for the construction or purchase of temporary or portable buildings, and for the cost of site preparation, including any necessary utility costs, in connection with their utilization and (2) to establish standards in conjunction with the State Department of Education or board of governors, as the case may be, pertaining to such sites and buildings as a condition for making the apportionment. In addition the board may also expend moneys from the State School Construction Fund directly for the construction, acquisition, storage, maintenance, and repair of the buildings, including administrative costs related thereto. In the latter event the board may lease, sell, or transfer under a lease-purchase agreement the buildings to school districts eligible for aid under this chapter, under such terms as it deems fit. Agreements pertaining thereto may provide for the payment by the state of site preparation costs, including any necessary utility costs, sufficient to permit their utilization.

Any buildings leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 39140 to 39155, inclusive, or 81130 to 81145, inclusive.

The consideration provided by any agreement between the state and districts pursuant to this section shall as nearly as possible reflect

an amount which would return to the state a fair pro rata proportion of its capital investment and expenditures connected therewith in the light of the benefits conferred by the agreement. Such consideration shall be paid by the districts promptly when due, and Section 15573 shall not be deemed applicable to reduce the consideration, provided that the amounts so repaid shall be redeposited in the State School Construction Fund.

Whenever the board deems it economically desirable to do so the board may dispose of any facilities acquired or constructed directly by it under this section to any public or private parties under such terms and in such manner as the board deems fit, save insofar as the disposal is inconsistent with any agreement under this section between the board and an affected district. The board is authorized to do any and all things necessary to effectuate the purposes of this section, and any eligible school district is authorized to enter into an agreement with the board to carry out the purposes hereof.

No agreement shall however be entered into under this section unless the department has with respect thereto, or as a condition of making the agreement, approved (1) the property to be transferred, including any incidental construction pertaining thereto, (2) whether the agreement shall be by lease or sale, and (3) the term of the transfer, if less than a sale, including any contingent or indefinite term. "Sale" as used in this paragraph includes a lease-purchase transaction. The jurisdiction of the department shall not otherwise extend to the terms of the agreement.

SEC. 17. Section 15592 of the Education Code is amended to read:

15592. Whenever the Controller determines that any money apportioned to a school district under this chapter has been expended by the district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Construction Fund, to be reapportioned by the board.

The governing body and county treasurer shall make the payments to the Treasurer as provided in this section, and the Controller shall enforce the collection on behalf of the state.

SEC. 18. Section 15910 of the Education Code is amended to read:

15910. Upon request of the State Allocation Board, supported by

a statement of the apportionments made and to be made under Sections 15700 to 15795, inclusive, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make the apportionments, and, if so, the amount of bonds then to be issued and sold. A sufficient number of bonds authorized under this chapter shall be issued and sold so that one hundred million dollars ($100,000,000) will have been apportioned or will be available for apportionment on October 5, 1950, or as soon thereafter as the bonds can be issued and sold, and so that five million dollars ($5,000,000) additional will become available for apportionment on November 5, 1950, and on the fifth day of each month thereafter until the total amount of bonds authorized by this chapter have been issued and sold. Successive issues of bonds may be authorized and sold to make the apportionments progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time.

SEC. 19. Section 16195 of the Education Code is amended to read:

16195. Allocations under this article may be made in such amount as may be necessary, and in such manner as to distribute the available funds equitably among school districts, giving consideration to the needs of each district and the number of children within each district who are blind, partially seeing, aphasic, deaf, hard of hearing, mentally retarded, or orthopedic or who are health impaired, multihandicapped, speech handicapped, educationally handicapped, or enrolled in development centers for the handicapped.

In computing the number of those children, there shall be included all of the following:

(a) The number of them residing in the district.

(b) The number of handicapped minors who are actually living within the district five or more days a week, although their legal residence may be outside the district and who are educated pursuant to Section 56708 or 78709.

(c) The number of them who reside outside of the district, except those described in subdivision (b), and who are to be educated by the district, excluding mentally retarded minors within the provisions of Section 56501 or 78801 who reside within a district having an average daily attendance of 900 or more and which does not meet the requirements of Section 16058 concerning outstanding bonded indebtedness.

Allocations for housing and equipment for minors having speech defects or disorders shall be allowed in new schools constructed after July 1, 1968, and in existing schools constructed between July 1, 1933, and July 1, 1968. The housing and equipment shall be designed and provided to permit their utilization for remedial and other special services including speech therapy, speech reading (lipreading), and auditory training for the speech and hearing handicapped, screening and testing for speech and hearing defects, or both, psychological

testing of exceptional children, subject matter tutoring of exceptional children, and other specialized activities required by such children. In addition to the maximum building area allowances provided in Sections 16047, 16052, 16053, and 16054, not more than an additional 200 square feet of building area shall be allowed for each new school so planned and constructed.

Each existing school, constructed between July 1, 1933, and July 1, 1968, shall be allowed not more than an additional 200 square feet of building area only for construction thereon of a new speech facility. At the option of the applicant district, the board may allocate funds to convert existing facilities or to provide a combination of new construction and conversion of existing facilities to provide housing for minors having speech defects or disorders, provided the cost of the conversion or combination of new construction and conversion does not exceed the computed cost for 200 square feet of new classroom construction based upon cost standards adopted by the board. At the further option of the applicant district, and in lieu of new building construction or conversion, the board may allocate funds for the acquisition of mobile speech therapy facilities, provided the cost of the mobile facilities does not exceed the combined computed cost for 200 square feet of new classroom construction, based upon cost standards adopted by the board, at all schools which will be served by the mobile facility.

SEC. 20. Section 16402 of the Education Code is amended to read:

16402. The Treasurer shall, on the respective dates of maturity or prior redemption of the bonds, or as soon thereafter as the bonds are surrendered to him or her, pay the same out of the proceeds of the Controller's warrants drawn in his or her favor as provided in Section 16403 and perforate the bonds so paid with a suitable device in a manner to indicate the payment and the date thereof. The Treasurer, or his or her duly authorized agent, shall also, on the respective dates of maturity, cancel all bonds and appurtenant coupons bearing those dates of maturity and remaining unsold, by perforation with a suitable device in a manner to indicate the cancellation and the date thereof. New bonds may be prepared and executed in lieu of bonds canceled solely by reason of the fact that the bonds have not been sold prior to their fixed maturity dates, whenever the State School Building Finance Committee determines the new bonds shall be prepared and executed, subject to the condition the total indebtedness created hereunder shall not exceed the maximum limit herein specified. Not less than four years after the final maturity date of a particular issue of bonds, the Treasurer, or his or her duly authorized agent, may destroy or cremate any bonds of that issue which have been previously paid or canceled as hereinbefore provided.

SEC. 21. Section 16603 of the Education Code is amended to read:

16603. For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the State School Building Aid Law of 1952, and of all acts amendatory thereof

and supplementary thereto, the committee may create a debt or debts, liability or liabilities, of the state, in the aggregate amount of one hundred million dollars ($100,000,000) in the manner provided herein, but not otherwise or in excess thereof.

SEC. 22. Section 24809 of the Education Code is amended to read:

24809. The assets of the annuity reserve fund invested in common stocks or shares shall not exceed the percentage of annuity reserve fund assets so invested as of June 30, 1973, or 25 percent of the total assets of the fund, whichever is lower. The assets invested in preferred stocks or shares shall not exceed 5 percent of the total assets of the fund. For the purposes of this section, valuation of fund assets, common stocks or shares, and preferred stocks or shares shall be determined on the basis of cost to the annuity reserve fund.

SEC. 23. Section 32200 of the Education Code is amended to read:

32200. Notwithstanding Section 1714.5 of the Civil Code, no superintendent, principal, teacher, instructor, or other employee of a school district or community college district employed in a position requiring or not requiring certification qualifications, and no person authorized by the governing board of the school district or community college district to assist any employee of the district, shall be held personally liable for civil damages on account of personal injury to or death of any person resulting from the participation of the person in a fire drill or other drill or test related to a potential emergency situation, ordered by lawful authority to be held in the schools of the employing district, unless negligence or the willful act of the employee is the proximate cause of the injury or death.

SEC. 24. Section 33500 of the Education Code is amended to read:

33500. The Legislature hereby declares that there is further need to encourage the adoption of new or improved educational ideas, practices, and techniques in solving critical educational problems in preschool, elementary, and secondary schools throughout the state. In recognition of the need for the planning and developing of new programs involving a wide range of new approaches designed to improve the quality of education available in this state, this chapter is expressly enacted to foster innovation and create change in education, based on research and proven need. It is the purpose of this chapter to bring purposeful change and experimentation to schools throughout the state, through the use of all available resources of the state.

The Legislature further finds that there are in existence a large number of permanent commissions, committees, and councils, some of which have overlapping duties and functions, and some of which have been perpetuated beyond the original need or purpose for which created. In order to provide a more economical, efficient, and logical structure to educational policymaking, it is the intent of the Legislature to create three levels of educational advisory bodies: educational policy advisory commissions, educational advisory committees, and educational task forces.

SEC. 25. Section 35515 of the Education Code is amended to read:

35515. "Component district" means an elementary school district which is included within a high school district.

SEC. 26. Section 35577 of the Education Code is amended to read:

35577. Whenever an existing school district having authorized but unsold bonds is completely divided between two or more districts so that the existing district ceases to exist, pursuant to any provision of this chapter, the board of supervisors shall, prior to the date the action is effective for the purposes of Section 35534, make and enter an order in the minutes of its proceedings that the authorization to issue the unsold bonds be divided between the districts in the ratio which the assessed valuation of the territory transferred to the districts bears to the total assessed valuation of the former district. The bonds, if issued by any new district, shall be considered a liability of the new district for purposes of computing the bonding capacity of the new district when applying the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10.

SEC. 27. Section 37228 of the Education Code is amended to read:

37228. The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.

The classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, and the programs of a regional occupational center or regional occupational program.

Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for the pupil per week.

Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil.

Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday through Friday school week.

The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 52200, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

SEC. 28. The heading of Article 4 (commencing with Section 37530) of Chapter 4 of Part 22 of the Education Code is repealed.

SEC. 29. Section 39398 of the Education Code is amended to read:

39398. Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open-space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the

governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open-space purposes. The school district may, at any time, reacquire the land at a price calculated in the manner prescribed in Section 39396, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playground, playing field, or other outdoor recreational and open-space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to reacquire the land. If the school district intends to sell the property within one year of the reacquisition date, the school district may finance the reacquisition of the land by lien against the proceeds to be obtained from the sale of the land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency may use or dispose of the property.

For purposes of this section, "cost of acquisition," as used in Section 39396, shall refer to the cost at which the land was acquired by the public agency.

SEC. 30. Section 41342 of the Education Code is amended to read:

41342. When any judgment has been rendered which requires the apportionment from the State School Fund to any school district, to any other agency, or to any fund for any fiscal year of more than the amount actually apportioned thereto during that fiscal year, the difference shall be apportioned to the district, agency, or fund by the Superintendent of Public Instruction from the State School Fund during the fiscal year following that in which the judgment becomes final before any other apportionment from the State School Fund is made. Upon the becoming final of any judgment which requires the apportionment from the State School Fund to any school district, to any other agency, or to any fund for any fiscal year of less than the amount actually apportioned thereto during any fiscal year, the difference shall be deducted from the apportionment made to that district, agency, or fund by the Superintendent of Public Instruction from the State School Fund during the fiscal year following that in which the judgment becomes final.

SEC. 31. Section 42237.7 of the Education Code is amended to read:

42237.7. It is the intent of the Legislature to transfer on a permanent basis the junior high school tuition amounts for 7th and 8th grade pupils in junior high schools operated by high school districts from the revenue limits of elementary school districts to the revenue limits of the high school districts. Prior to computing each school district revenue limit for the 1980–81 fiscal year, each elementary and high school district 1979–80 fiscal year revenue limit

shall be adjusted pursuant to this section. The adjustment shall not be an adjustment to apportionments for the 1979–80 fiscal year.

(a) The county superintendent of schools having jurisdiction shall, for elementary districts with pupils attending junior high schools operated by a high school district:

(1) Subtract from the 1979–80 fiscal year revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section 42237 of the elementary district, the amount of the 1979–80 fiscal year junior high tuition rate per unit of average daily attendance which was calculated to be paid by the elementary district.

(2) Multiply the amount determined in paragraph (1) by the number of units of average daily attendance of the elementary district attending junior high schools operated by a high school district.

(3) Divide the amount determined in paragraph (2) by the number of units of average daily attendance attending kindergarten and grades 1 to 6, inclusive, in the elementary district in the 1979–80 fiscal year.

(4) The amount computed in paragraph (3) shall be added to the amount computed in paragraph (2) of subdivision (b) of Section 42237 to determine the adjusted revenue limit per unit of average daily attendance of the elementary district.

For the 1979–80 fiscal year and each fiscal year thereafter, the elementary school district shall not include in its revenue limit calculation any units of average daily attendance attributable to the attendance of 7th and 8th graders in junior high schools operated by a high school district. The loss of units of average daily attendance due to the transfer of 7th and 8th grade pupils pursuant to this section shall not be used in computing declining enrollment for the elementary district pursuant to Section 42239.

(b) The county superintendent of schools having jurisdiction shall, for high school districts with junior high school pupils:

(1) Multiply the junior high tuition rate for the 1979–80 fiscal year for each elementary district served by the high school district by the number of units of average daily attendance of the appropriate elementary district for the 1979–80 fiscal year and sum the products so determined.

(2) Divide the sum determined in paragraph (1) by the total units of average daily attendance in grades 7 and 8 of the high school district in the 1979–80 fiscal year.

(3) Subtract the amount determined in paragraph (2) from the amount computed for the high school district pursuant to paragraph (2) of subdivision (b) of Section 42237.

(4) Multiply the amount determined in paragraph (3) by the number of units of average daily attendance in the 7th and 8th grades of the high school district in the 1979–80 fiscal year.

(5) Divide the amount determined in paragraph (4) by the number of units of average daily attendance in grades 7 to 12,

inclusive, of the high school district in the 1979–80 fiscal year.

(6) The amount computed in paragraph (5) shall be subtracted from the amount computed in paragraph (2) of subdivision (b) of Section 42237 to determine the adjusted revenue limit per unit of average daily attendance of the high school district.

For the 1980–81 fiscal year and each fiscal year thereafter, all units of average daily attendance generated from pupils attending grades 7 and 8 in a junior high school operated by a high school district shall be credited to the high school district. The Superintendent of Public Instruction shall establish procedures for the determination of declining enrollment for the high school district pursuant to Section 42239.

(c) Any reduction or addition to the revenue limits of school districts affected by the implementation of this section shall not be considered in the calculation provided for in subdivision (d) of Section 42237.

(d) For the purpose of determining the appropriations limit of school districts affected by this section, the appropriations limit of each school district shall be adjusted in accordance with subdivision (a) of Section 3 of Article XIII B of the California Constitution.

SEC. 32. The heading of Article 2 (commencing with Section 42420) of Chapter 8 of Part 24 of the Education Code is repealed.

SEC. 33. Section 42647 of the Education Code is amended to read:

42647. With the approval of the Superintendent of Public Instruction, the governing board of a unified school district, or district with over 10,000 average daily attendance, may cause to be drawn all warrants on the county treasurer against all the funds, except debt service, of the district in the county treasury in the payment of the expenses of the district. The warrants shall be issued by a person designated as the district auditor or district disbursing officer for the school district on the county treasurer in favor of the persons entitled thereto in payment of all claims chargeable against the district which have been legally examined, allowed, and ordered paid by the governing board. The district auditor shall issue warrants on the county treasurer for all debts and demands against the district when the amounts are fixed by law. The form of the warrant shall be as prescribed by the governing board and approved by the county auditor or county treasurer having jurisdiction.

Notwithstanding Section 42631, the cost of printing the warrants shall be borne by the district.

No county officer shall be responsible for producing reports, statements, and other data relating to or based on these payments of the expenses of the districts. Those districts issuing warrants as provided by this section shall provide the county superintendent of schools, in the form prescribed by him or her, with the data necessary to make retirement reports and other reports required of him or her by law. All warrants, vouchers, and supporting documents shall be kept by the school districts that draw their own warrants.

Notwithstanding Section 27005 of the Government Code, or any

other section requiring orders for warrants or warrants to be signed by the county superintendent of schools or the county auditor, or both, the county treasurer shall pay the warrant, if money is available.

Notwithstanding Section 41000, except for assessing and tax collecting, the county auditor and the county treasurer may charge those districts that draw their own warrants for the cost of all fiscal services.

The person authorized by the governing board of the district to issue warrants pursuant to this section shall execute an official bond in an amount fixed by the governing board conditioned upon the faithful performance of his or her duties under this section. A county superintendent of schools or a county auditor shall not be liable under the terms of their bonds or otherwise for any warrant issued pursuant to this section. It is not intended that this provision shall be applied so as to impair the obligation of any contract in the bond of such officer in effect on the effective date of this section.

A listing of the warrants issued under this section by each school district shall be forwarded to the county auditor having jurisdiction, upon his or her request, and to the county superintendent of schools having jurisdiction over the district on the same day warrants are issued. The listing, which may be magnetic tape, punched cards, or in other form, shall report, among other things, the warrant number, date of the warrant, amount of the warrant, the name of the payee, and the fund on which drawn.

The form and content of the warrant listing shall be as prescribed by the governing board and approved by the county auditor having jurisdiction.

Each unified school district or district with over 10,000 average daily attendance which issues warrants pursuant to this section shall furnish monthly to the county superintendent of schools and the county auditor of the county of jurisdiction, upon his or her request, a statement showing for the current fiscal year to date, for each required expenditure classification, the amount budgeted, actual expenditures, encumbrances and unencumbered balances.

In order to obtain the approval of the Superintendent of Public Instruction, a unified school district, or district with over 10,000 average daily attendance, shall file a written application with the county superintendent of schools of jurisdiction. Upon receipt of an application from the district, the county superintendent of schools shall cause a survey to be made of the district's accounting controls by an independent certified public accountant or public accountant in accordance with standards prescribed by the Department of Finance. The certified public accountant or public accountant shall report his or her findings and recommendations to the county superintendent, county auditor, and to the applicant district.

SEC. 34. Section 44203 of the Education Code is amended to read:

44203. As used in this chapter:

(a) "Commission" means the Commission for Teacher

Preparation and Licensing.

(b) "Approved institution" means any institution approved by the commission.

(c) "Subject matter examination" means any objective examination approved by the commission as an instrument to measure subject matter knowledge. Successful passage of a subject matter examination or its waiver shall be mandatory for any intern or any applicant for a teaching credential.

(d) "Professional preparation" means either (1) at least nine semester units of professional education courses and one semester of approved full-time student teaching or its equivalent under the supervision of an approved college or university, or (2) an approved internship program of at least one year.

(e) "Fifth year" means a full academic year, or its equivalent, taken at an approved college or university after completion of a baccalaureate program. Institutions of higher education and public schools may be authorized to attest to a teacher's completion of this requirement. Minimum requirements for teaching credentials shall not include more than the equivalent of one-fifth of a five-year program in, or one year of, professional preparation of which at least one-half will be in student teaching.

(f) "In-service training" means any program of teacher education or preparation offered jointly by a school district and an approved college or university for the purposes of improving or upgrading a teacher's skills, knowledge, or instructional methods which is offered for credit and is approved by the commission.

(g) "Authorization" means the designation appearing on the teaching or service credential identifying the areas of instruction or service which the credential holder is permitted to perform.

(h) "Any grades" and "all grades" means grade 12 or below.

(i) "Rules, regulations, and determinations" means every rule, regulation, order, standard, or determination of general application or the amendment, supplement, or revision of any such rule, regulation, order, standard, or determination adopted by the commission to implement, interpret, or make specific the law enforced and administered by the commission.

SEC. 35. Section 44493 of the Education Code is amended to read:

44493. There is a Master Teacher Review Board, which is composed of the Director of Finance, or his or her designee; the Legislative Analyst, or his or her designee; the Superintendent of Public Instruction, or his or her designee; the Chairman of the Assembly Ways and Means Committee; and the Chairman of the Senate Finance Committee.

The legislative members of the board shall meet with, and participate in the work of, the board to the extent that the activity is not incompatible with their positions as Members of the Legislature.

If 25 percent or more of the teachers of a school district eligible to participate in the program pursuant to Section 44497 are designated

as certified master teachers pursuant to this article, the Master Teacher Review Board shall review the selection process in that district to ascertain whether or not the district is complying with the provisions of this article. No stipend shall be paid to any teacher in such a district unless the payment is approved by the Master Teacher Review Board after a determination that the district is in substantial compliance in its selection procedures.

SEC. 36. Section 44858 of the Education Code is amended to read:

44858. The Legislature hereby declares that it is contrary to the interest of this state and of the people thereof for any governing board or any person charged by the governing board of any school district with the responsibility of interviewing and recommending persons for employment in positions requiring certification to fail or refuse to do so for reason of the age or marital status of any applicant for such employment, except as otherwise provided in this code.

SEC. 37. Section 45117 of the Education Code is amended to read:

45117. (a) When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of the school year shall be given written notice on or before May 29 informing them of their layoff effective at the end of the school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 30 days prior to the effective date of their layoff.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 30 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

(c) Nothing herein provided shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries of classified employees, nor layoff for lack of work resulting from causes not foreseeable or preventable by the governing board, without the notice required by subdivision (a) or (b).

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240).

SEC. 38. Section 52014 of the Education Code is amended to read:

52014. Each plan shall be based on an assessment of school capability to meet the educational needs of each pupil, specify improvement objectives, and indicate steps necessary to achieve those objectives, including intended outcomes. The three-year plan shall include activities to implement the components in Sections 52015, 52016, and 52017 within three years. Each school site plan shall provide for annual activities for subdivisions (a), (b), (c), (f), and (g) of Section 52015 and subdivision (a) of Section 52016, but

different aspects within subdivision (a) of Section 52015 may be emphasized in different years. If the school site council finds that an existing program in any component area is of high quality, the program need only be briefly described in the school improvement plan.

SEC. 39. Section 56454 of the Education Code is amended to read:

56454. In order to provide districts, special education service regions, and county offices with maximum flexibility to secure and utilize all federal funds available to enable those entities to meet the career and vocational needs of individuals with exceptional needs more effectively and efficiently, and to provide maximum federal funding to those agencies for the provision of that education, the superintendent shall do all the following:

(a) Provide necessary technical assistance to districts, special education service regions, and county offices.

(b) Establish procedures for these entities to obtain available federal funds.

(c) Apply for necessary waivers of federal statutes and regulations including, but not limited to, those governing federal career and vocational education programs.

SEC. 40. Section 84717 of the Education Code is repealed.

SEC. 41. The heading of Article 5 (commencing with Section 92650) of Chapter 6 of Part 57 of the Education Code is repealed.

SEC. 42. Section 100 of the Elections Code is amended to read:

100. Every person who qualifies under Section 2 of Article II of the Constitution and who complies with the provisions of this code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held.

SEC. 43. Section 2601 of the Elections Code is amended to read:

2601. Except as provided in Sections 35443, 36503.5, and 36504 of the Government Code, a general municipal election shall be held on the second Tuesday in April of even-numbered years.

SEC. 44. Section 752 of the Financial Code is amended to read:

752. A bank or trust company may purchase, acquire, and hold not less than 75 percent of the outstanding shares of a corporation engaged exclusively in holding real property of the character described in subdivision (a) of Section 750 for the purposes therein set forth or in holding, separately or in addition to that real property, tangible personal property necessary or convenient for the use of the bank or trust company in the conduct of its business or for future expansion of its business. The purchase or acquisition of stock of any such corporation shall be approved by two-thirds of all the directors of the bank or trust company and be approved in writing by the superintendent. An application for approval shall be in such form and contain such information as the superintendent may by order or regulation require and shall be accompanied by a fee of five hundred dollars ($500).

SEC. 45. Section 855 of the Financial Code is amended to read:

855. (a) No later than 10 days, and no sooner than 60 days prior to, the maturity date of any time deposit described in subdivision (g), a bank shall notify the depositor, in writing, of the maturity date.

(b) The notification shall also inform the depositor of the length of time available to the depositor for affecting the status of the deposit after the maturity date.

(c) If no interest is paid beyond the maturity date, and after that date the deposit shall be considered a demand deposit, the depositor shall be so informed.

(d) If, pursuant to an agreement, the deposit after maturity again constitutes a time deposit, the depositor shall be informed of the rate of interest and new maturity date.

(e) It is the intent of the Legislature that banks not be precluded from supplying depositors with additional written notices of the maturity date and the new rate of interest in the event the deposit becomes a new time deposit.

(f) This section does not apply to any of the following:

(1) Time deposits represented by instruments payable to bearer.

(2) Time deposits which contemplate subsequent deposits to the account having the same maturity date as the initial deposit, as to which the bank has agreed to pay the balance in the account to the depositor or to credit the balance to another account of the depositor which is not a time deposit on an annual or more frequent basis.

(3) Time deposits having a fixed-term maturity of not more than 90 days.

(g) For the purposes of this section, "time deposit" includes an account which consists of funds deposited to the credit of one or more natural persons or an association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and does not include accounts which consist of funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

SEC. 46. Section 2071 of the Financial Code is amended to read:

2071. Any agreement for the merger of two or more banks or trust companies and any certificate of ownership executed pursuant to Section 1110 of the Corporations Code pertaining to such a merger shall have the approval of the superintendent endorsed thereon before it is filed with the Secretary of State. An application for the approval shall be in such form and contain such information as the superintendent may require, and shall be accompanied by a fee of two thousand five hundred dollars ($2,500).

SEC. 47. Section 18643.1 of the Financial Code is repealed.

SEC. 48. The heading of Article 5 (commencing with Section 500) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code is amended and renumbered to read:

Article 6. Ethanol Fuel

SEC. 49. Section 71000 of the Food and Agricultural Code is amended and renumbered to read:

70000. The director may enter into an agreement with one or more organizations representing growers and manufacturers of cling peaches whereby research will be conducted by public or private agencies to determine methods of increasing the natural fructose content in cling peaches.

The agreement shall specify that the state will provide 50 percent of the funds necessary for the research and the other parties to the agreement will provide the remaining 50 percent.

SEC. 50. Section 71001 of the Food and Agricultural Code is amended and renumbered to read:

70001. State funds shall be available for expenditure for the purposes of this chapter upon appropriation therefor by the Budget Act or other statute.

SEC. 51. Section 8807.5 of the Government Code is amended to read:

8807.5. "Instructional committee" means the instructional broadcast advisory committee created by Article 4 (commencing with Section 8830).

SEC. 52. Section 8808 of the Government Code is amended to read:

8808. "Radio committee" means the radio advisory committee created by Article 4 (commencing with Section 8830).

SEC. 53. Section 8809 of the Government Code is amended to read:

8809. "T.V. committee" means the television advisory committee created by Article 4 (commencing with Section 8830).

SEC. 54. Section 8835 of the Government Code is amended to read:

8835. The California Public Broadcasting Fund is hereby created in the State Treasury, effective January 1, 1976. The fund shall be a means of annually funding state support for the development, operation, interconnection, and programming of public broadcasting stations.

SEC. 55. Section 8838 of the Government Code is amended to read:

8838. Nothing in this chapter shall be deemed to supersede the responsibilities of a state agency or regional or local agency except as expressly provided. Nothing in this chapter shall be construed to conflict with Section 6443.5, 6444, 6444.1, 6444.2, or 6444.3 of the Education Code.

The commission succeeds to and is vested with all powers and responsibilities previously vested in the Director and Department of General Services by Section 14657 and Article 8 (commencing with Section 14716) of Chapter 2 of Part 5.5 of Division 3 of Title 2.

SEC. 56. Section 8947 of the Government Code is amended to

read:

8947. If a hearing is to be held pursuant to Section 8945 the committee, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with Chapter 4 (commencing with Section 9400) of Part 1 of Division 2 of Title 2. All of the provisions of Chapter 4, except Section 9410, apply to the committee and the witnesses before it.

SEC. 57. Section 8950 of the Government Code is amended to read:

8950. After the hearing the committee shall state its findings of fact. If the committee finds that the respondent has not violated any provisions of Article 2 (commencing with Section 8920), it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the Attorney General and to the district attorney of the appropriate county. If the committee finds that the respondent has violated any provisions of Article 2 (commencing with Section 8920), it shall state its findings of fact and submit a report thereon to the house in which the respondent serves, send a copy of the findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General and to the district attorney of the appropriate county.

SEC. 58. Section 8951 of the Government Code is amended to read:

8951. Nothing in this chapter shall preclude any person from instituting a prosecution for violation of any provision of Article 2 (commencing with Section 8920) unless that person has filed a complaint with the committee concerning the violation, in which case that person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for the violation until the committee has made its determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the committee.

SEC. 59. Section 8952 of the Government Code is amended to read:

8952. The filing of a complaint with the committee pursuant to this article suspends the running of the statute of limitations applicable to any violation of the provisions of Article 2 (commencing with Section 8920) while the complaint is pending.

SEC. 60. Section 8955 of the Government Code is amended to read:

8955. The committee may render advisory opinions to Members of the Legislature with respect to the provisions of Article 2 (commencing with Section 8920) and their application and construction. The committee may secure an opinion from the Legislative Counsel for this purpose or issue its own opinion.

SEC. 61. Section 14257 of the Government Code is repealed.

SEC. 62. Section 14382 of the Government Code is repealed.

SEC. 63. Article 8.1 (commencing with Section 14410) of Chapter

3 of Part 5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 64. Article 8.2 (commencing with Section 14415) of Chapter 3 of Part 5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 65. Section 21206 of the Government Code, as added by Chapter 963 of the Statutes of 1981, is repealed.

SEC. 66. Section 26827.4 of the Government Code is amended to read:

26827.4. (a) The fee for filing of a subsequent paper in a proceeding under the Probate Code which requires a court hearing shall be twelve dollars ($12), except for papers for proceedings required by any of the following:

(1) Section 591.2 of the Probate Code.

(2) Accountings under Section 1120 of the Probate Code.

(3) Division 4 (commencing with Section 1400) of the Probate Code.

(b) Objections to any papers exempt from the fee imposed by this section shall be subject to the filing fee of twelve dollars ($12). This section does not apply to petitions filed pursuant to subdivision (b) of Section 26827.

SEC. 67. Section 36503 of the Government Code is amended to read:

36503. Unless otherwise required by Section 35443 and except as authorized by Section 36503.5 or 36504, a general municipal election shall be held on the second Tuesday in April in each even-numbered year. Except as otherwise provided in this title, city councilmen, the city clerk, and the city treasurer shall be elected by the city electors at a general municipal election. City councilmen, the city clerk, and the city treasurer shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

SEC. 68. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body.

Any such appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken.

Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. Any such appeal shall be filed with the clerk of the legislative body within 10 days after the action of the appeal board from which the appeal is being taken.

Upon the filing of an appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal. The decision shall comply with the provisions of Sections 66473, 66473.5, and 66474, and shall include any findings required by those sections.

(c) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b). If no such further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and local ordinances, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify the approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and local ordinances, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify the approval.

(d) Where a local ordinance so provides, any interested person adversely affected by a decision of the advisory agency or appeal board may file a complaint with the governing body concerning any decision of the advisory agency or appeal board. Any such complaint shall be filed with the clerk of the governing body within 10 days after the action of the advisory agency or appeal board which is the subject of the complaint. Upon the filing of the complaint, the governing body may set the matter for hearing. The hearing shall be held within 30 days after the filing of the complaint. The hearing may be a public hearing for which notice shall be given in the time and manner provided.

Upon conclusion of the hearing the governing body shall, within seven days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. It may sustain, modify, reject, or overrule any

recommendations or rulings of the advisory board or the appeal board and may make such findings as are not inconsistent with this chapter or local ordinances adopted pursuant to this chapter.

(e) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to any such hearing. The notice requirement of this subdivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section.

SEC. 69. Section 501 of the Harbors and Navigation Code is amended to read:

501. (a) Every person has a lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair, or safekeeping of, and for costs incurred in the mooring, berthage, wharfage, and anchorage of, and for the rental of trailer parking space for, any vessel subject to registration with the Department of Motor Vehicles, subject to the limitations set forth in this article.

(b) That portion of the lien in excess of three hundred dollars ($300) for any work or services, or in excess of two hundred dollars ($200) for any storage or safekeeping, rendered or performed at the request of any person other than the holder of the legal title, is invalid, unless prior to commencing any such work or service the person claiming the lien gives actual notice in writing, either by personal service or by registered letter, to the legal owner and registered owner, named in the certificate of ownership, and the consent of the holder of the legal title is obtained before any such work or services are performed. If any portion of a lien includes charges for the care, storage, or safekeeping of, or costs incurred in the mooring, berthage, wharfage, and anchorage of, or for the rental of trailer parking space for, a vessel for a period in excess of 60 days, the portion of the lien which accrued after the expiration of that period is invalid unless the provisions of Sections 754 and 755 have been complied with by the holder of the lien.

SEC. 70. Section 26636 of the Health and Safety Code is amended to read:

26636. Any drug subject to Section 26660 is misbranded unless the manufacturer, packer, or distributor of the drug includes, in all advertisements and other descriptive matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug, a true statement of all of the following:

(a) The established name, printed prominently and in a type at least half as large as that used for any proprietary name of the drug.

(b) The formula showing quantitatively each ingredient of the drug to the extent required for labels under Section 26635.

(c) The name and place of business of the manufacturer that produced the finished dosage form of the drug, as prescribed by regulations issued by the State Department of Health Services. This subdivision applies only to advertisements or descriptive matter issued for drugs manufactured in finished dosage form on or after April 1, 1973.

(d) Such other information, in brief summary relating to side effects, contraindications, and effectiveness as shall be required by regulations promulgated by the department.

Regulations relating to side effects, contraindications, and effectiveness issued pursuant to Section 502(n) of the federal act (21 U.S.C. Sec. 352(n)) are the regulations establishing information requirements relating to side effects, contraindications and effectiveness in this state. The department may, by regulation, make other requirements relating to side effects, contraindications, and effectiveness whether or not in accordance with the regulations adopted under the federal act.

SEC. 71. Section 35805 of the Health and Safety Code is amended to read:

35805. As used in this part:

(a) "Agency" means the Business, Transportation and Housing Agency.

(b) "Fair market value" means the highest price which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, acting prudently and knowledgeably.

(c) "Financial institution" includes any bank, savings and loan association, or other institution in this state, including a public agency, that regularly makes, arranges, or purchases loans for the purchase, construction, rehabilitation, improvement, or refinancing of housing accommodations.

(d) "Housing accommodation" includes any improved or unimproved real property, or portion thereof, that (1) is used or is intended to be used as a residence, and (2) is or will be occupied by the owner, and (3) contains not more than four dwelling units. "Housing accommodation" shall also include any residential dwelling containing not more than four dwelling units where the owner thereof, whether or not the owner will occupy the property, applies or has applied for a secured home improvement loan from a financial institution, the proceeds of which loan will be used to improve the security property.

(e) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

SEC. 72. Section 41958 of the Health and Safety Code is amended to read:

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

performance standards as to safety and measurement accuracy and the minimum procedures to be followed in testing the system or component for compliance with the performance standards.

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

SEC. 73. Section 50003 of the Health and Safety Code is amended to read:

50003. (a) The Legislature finds and declares that, as a result of public actions involving highways, public facilities, and urban renewal projects, and as a result of poverty and the spread of slum conditions and blight to formerly sound neighborhoods, there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income, including the elderly and handicapped, can afford. This situation creates an absolute present and future shortage of supply in relation to demand, as expressed in terms of housing needs and aspirations, and also creates inflation in the cost of housing, by reason of its scarcity, which tends to decrease the relative affordability of the state's housing supply for all its residents.

(b) To provide a decent home and suitable living environment for every California family is the basic housing goal of state government. The Legislature recognizes that the California Statewide Housing Plan shows the magnitude of this goal by documenting a substantial need for rehabilitation of existing housing, demolition and replacement of severely dilapidated housing, construction of new apartments, houses, and mobilehomes, construction or rehabilitation of housing for year-round hired and seasonal farmworkers as well as housing for migrant farmworkers, and the provision of financial assistance to a substantial number of lower income households in order to meet standards for affordable rent or housing cost. Private enterprise and investment, without governmental assistance, cannot economically achieve the needed construction of decent, safe, and sanitary housing at rents or purchase prices which persons and families of low or moderate income can afford, nor can it provide the urgently needed rehabilitation of existing housing. The Legislature also recognizes the need to provide assistance to persons and families of low and moderate income and very low income households to purchase manufactured housing and to cooperatively own the mobilehome parks in which they reside and the need to increase the supply of manufactured housing affordable to persons and families of

low and moderate income and very low income households.

(c) The shortage of decent, safe, and sanitary housing is inimical to the safety, health, and welfare of the residents of the state and sound growth of its communities.

(d) In order to remedy such shortages, it is the intent of the Legislature in enacting this division to provide a comprehensive and balanced approach to the solution of housing problems of the people of this state.

(e) This section shall not be interpreted as requiring state actions to meet housing goals without legislative authorization, or as requiring such legislative action.

SEC. 74. Section 50201 of the Health and Safety Code is amended to read:

50201. Nothing in this division shall preclude the establishment of direct relationships between the federal government and local public entities or shall in any way alter the authority of local public entities to directly receive federal funds, nor shall anything in this division be construed to supersede or affect any other provision of law relating to the control of funds by local public entities. Further, nothing in this division shall affect the authority or reduce the obligations specified in Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code with respect to payment of relocation assistance or prevent the receipt or disbursement of federal funds made available to any governmental agency for such purpose.

SEC. 75. Section 670 of the Insurance Code, as amended by Section 9 of Chapter 53 of the Statutes of 1982, is repealed. The repeal made by this section shall not affect the existence or validity of Section 670 of the Insurance Code as amended by Section 8 of Chapter 53 of the Statutes of 1982.

SEC. 76. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require, in advance, a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as insurance agent, insurance broker, resident life agent, and nonresident life agent shall be the same as those set forth in Section 1750 for the license fees for those licenses.

(b) Application for endorsement removing from any life agent's, insurance agent's or insurance broker's license issued to an organization the name of any natural person named thereon, five dollars ($5).

(c) First amendment to an application, five dollars ($5); a second and each subsequent amendment to an application, ten dollars ($10).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, seventeen dollars and fifty cents ($17.50) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, or a license as a variable contract agent, seventeen dollars and fifty cents ($17.50) for each person to be

examined.

(f) Application for reexamination for any of the licenses mentioned in this section, seventeen dollars and fifty cents ($17.50) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 (commencing with Section 1685), twelve dollars and fifty cents ($12.50) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 twenty dollars ($20), except that there shall be no fee when the name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, sixty-five dollars ($65).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational institution, or by a private nonprofit educational institution, sixty-five dollars ($65).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, thirty-five dollars ($35).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) or Section 1760.5 or 1765, except when the bond constitutes part of an original application filing, ten dollars ($10).

(*l*) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) or Sections 12280 and 12280.2, ten dollars ($10).

(m) An application or request for clearance and cancellation notice of a current licensee of record, ten dollars ($10).

(n) An amended action notice pursuant to subdivision (e) of Section 1704, two dollars and fifty cents ($2.50).

SEC. 77. Section 11699 of the Insurance Code is amended to read:

11699. The bond shall be in an amount:

(a) Not less than the sum of the following amounts computed, less credits and deductions allowable with respect to reinsurance in admitted insurers, as of the close of the last preceding December 31st in respect to workers' compensation insurance written subject to the workers' compensation laws of this state:

(1) The aggregate of the present values at 6 percent interest, of the determined and estimated future payments upon compensation claims not included in paragraph (2), including in such claims both benefits and loss expenses.

(2) The aggregate of the amounts computed as follows: For each of the preceding three years take 65 percent of the earned

compensation premiums for that year and deduct all loss and loss expense payments made upon claims incurred in the corresponding year from such 65 percent; except that the amount for each such year shall not be less than the present value at 6 percent interest of the determined and the estimated unpaid claims incurred in each such year, including both benefits and loss expenses.

(b) Not less than one hundred thousand dollars ($100,000).

(c) If the aggregate amount computed under subdivision (a) exceeds fifty thousand dollars ($50,000), not more than double such aggregate amount.

SEC. 78. Section 11715 of the Insurance Code is amended to read:

11715. (a) Any worker's compensation insurer may, in lieu of, and for the same purpose as, the bond required by Section 11690, and upon payment of the fee prescribed in this article, deposit cash instruments, approved letters of credit, or approved interest-bearing securities or approved stocks readily convertible into cash, or investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation. The deposit shall be made from time to time as demanded by the commissioner and may be made with the Treasurer, or a bank, savings and loan association, or trust company pursuant to the approval of the commissioner under such rules and regulations as he or she shall promulgate. The deposit shall be maintained at a deposit value of not less than twenty-five thousand dollars ($25,000), nor less than the reserves required of the insurer to be maintained under any of the provisions of Article 1 (commencing with Section 11550) of Chapter 1, relating to loss reserves on worker's compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11699.

(b) Any worker's compensation insurer electing to bring itself within the provisions of subdivision (a) by submitting securities, stock, investment certificates, or share deposits registered in a depositor's name, shall execute and deliver in duplicate to the commissioner a power of attorney in favor of the commissioner for the purposes specified in Section 11690, supported by a resolution of the depositor's board of directors. The power of attorney and directors' resolution shall be on forms approved by the commissioner, shall provide that the power of attorney cannot be revoked or withdrawn without the consent of the commissioner, and shall be acknowledged as required by law.

(c) The commissioner shall require payment of one hundred fifty dollars ($150) in advance as a fee for the initial filing and the first semiannual review of each letter of credit specified in subdivision (a). In addition, each worker's compensation insurer depositing a letter of credit shall pay an annual fee of one hundred dollars ($100) in advance on account of the letter until its expiration or revocation. The fee shall be for annual periods commencing each January 1 and shall be due and payable on the following April 1.

(d) The commissioner shall require payment of one hundred dollars ($100) in advance as a fee for the initial filing of a deposit agreement with a bank, savings and loan association, or trust company on deposits made pursuant to subdivision (a). An additional fee of one hundred dollars ($100) shall be payable for each amendment, supplement, or other change to the deposit agreement. In addition, the commissioner shall require the payment of fifty dollars ($50) in advance for receiving and processing deposit schedules pursuant to this section. An additional fee of twenty-five dollars ($25) shall be payable for each withdrawal, substitution, or any other change in the deposit.

SEC. 79. Section 11873 of the Insurance Code is amended to read:

11873. The fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, with the exception of Division 4 (commencing with Section 1000) of Title 1 of, and Division 5 (commencing with Section 18000) of Title 2 of, the Government Code, unless the section specifically names the fund as an agency to which the provision applies.

SEC. 80. Section 871.5 of the Penal Code is amended to read:

871.5. When an action, or a portion thereof, is dismissed by a magistrate pursuant to Section 859b, 861, 871, or 1385, the prosecutor may make a motion in the superior court within 10 days to compel the magistrate to reinstate the complaint or a portion thereof and to reinstate the custodial status of the defendant under the same terms and conditions as when the defendant last appeared before the magistrate. Notice of the motion shall be made to the defendant and the magistrate. The only ground for the motion shall be that, as a matter of law, the magistrate erroneously dismissed the action or a portion thereof.

The superior court shall hear and determine the motion on the basis of the record of the proceedings before the magistrate. If the motion is litigated to decision by the prosecutor, the prosecution is prohibited from refiling the dismissed action, or portion thereof.

Within 10 days after the magistrate has dismissed the action or a portion thereof, the prosecuting attorney may file a written request for a transcript of the proceedings with the clerk of the magistrate. The reporter shall immediately transcribe his or her shorthand notes pursuant to Section 869 and file with the clerk of the superior court an original plus one copy, and as many copies as there are defendants (other than a fictitious defendant). The reporter shall be entitled to compensation in accordance with the provisions of Section 869. The clerk of the superior court shall deliver a copy of the transcript to the prosecuting attorney immmediately upon its receipt and shall deliver a copy of the transcript to each defendant (other than a fictitious defendant) upon his or her demand without cost.

When a court has ordered the resumption of proceedings before the magistrate, the magistrate shall resume the proceedings within 10 days after the superior court has entered an order directing the

reinstatement of the complaint, or a portion thereof, or within 10 days after the remittitur is filed in the superior court. Upon receipt of the remittitur, the superior court shall forward a copy to the magistrate.

Pursuant to paragraph (9) of subdivision (a) of Section 1238 the people may take an appeal from the denial of the motion by the superior court to reinstate the complaint or a portion thereof. If the motion to reinstate the complaint is granted, the defendant may seek review thereof only pursuant to Sections 995 and 999a. The review may only be sought in the event the defendant is held to answer pursuant to Section 872.

Nothing contained herein shall preclude a magistrate, upon the resumption of proceedings, from considering a motion made pursuant to Section 1318.

SEC. 81. Section 190.3 of the Probate Code is amended to read:

190.3. A disclaimer, to be effective, shall be filed within a reasonable time after the person able to disclaim acquires knowledge of the interest.

(a) Except as otherwise provided in subdivision (c), a disclaimer shall be conclusively presumed to have been filed within a reasonable time if filed as follows:

(1) In case of interests created by will, within nine months after the death of the person creating the interest, or within nine months after the interest becomes indefeasibly vested, whichever occurs later. Interest resulting from the exercise or nonexercise of a testamentary power of appointment shall be deemed created by the donee of the power for purposes of this chapter.

(2) In case of interests arising from intestate succession, within nine months after the death of the person dying intestate.

(3) In case of interests created by inter vivos trusts, within nine months after the interest becomes indefeasibly vested. Interests resulting from the exercise or nonexercise of a nontestamentary power of appointment shall be deemed created by the donee of the power for purposes of this chapter.

(4) In other cases, within nine months after the first knowledge of the interest is obtained by a person able to disclaim, or within nine months after the interest becomes indefeasibly vested, whichever occurs later.

(b) If the disclaimer is not filed within the time set forth in subdivision (a), the disclaimant shall have the burden to establish the disclaimer was filed within a reasonable time after he or she acquired knowledge of the interest.

(c) A disclaimer shall be conclusively presumed not to have been filed within a reasonable time after the person able to disclaim acquired knowledge of the interest if all of the following apply:

(1) An interest in the property which is in whole or in part sought to be disclaimed has been acquired by a purchaser or encumbrancer for value subsequent to or concurrently with the creation of the interest sought to be disclaimed and prior to such disclaimer.

(2) One year has elapsed from the death of the person dying intestate or creating, by will, the interest sought to be disclaimed, or from the date of the transfer by inter vivos gift, whether outright or in trust.

SEC. 82. Section 718.5 of the Probate Code is amended to read:

718.5. After the time for filing creditor's claims has expired, or earlier for good cause shown, the executor or administrator, with the approval of the court, may compromise, compound, or settle any claim or demand by or against the estate or any suit brought by or against the executor or administrator as executor or administrator, by the transfer of specific assets of the estate or otherwise. To obtain approval, the executor or administrator shall file a verified petition with the clerk showing the advantage of the compromise, composition, or settlement. The clerk shall set the petition for hearing by the court and notice thereof shall be given by the executor or administrator for the period and in the manner required by Section 1200.5. If, under this section, the court authorizes the transfer of real property of the estate, conveyances shall be executed by the executor or administrator in the same manner as provided in Section 786 and the conveyances shall have the same force and effect as conveyances executed pursuant to that section, and a certified copy of the order authorizing the transfer shall be recorded in the office of the recorder of the county in which the real property or any portion thereof lies. After the completion of the approved compromise, the executor or administrator shall incur no liability to anyone as a result of the approved compromise, composition, or settlement.

SEC. 83. Section 1035 of the Probate Code, as amended by Chapter 41 of the Statutes of 1982, is amended to read:

1035. If a will indicates the testator's intention to make a marital deduction gift in trust, in addition to the other provisions of this article, each of the following provisions shall also apply to the trust:

(a) The only income beneficiary of a marital deduction trust shall be the testator's surviving spouse.

(b) The income beneficiary shall be entitled to all of the trust income until the trust terminates.

(c) The trust income shall be payable to the income beneficiary not less frequently than annually.

(d) The income beneficiary shall have the right to require that the trustee of the trust make any unproductive property productive or to convert it into productive property within a reasonable time.

(e) Except in the case of a qualified terminable interest property resulting from an election pursuant to Section 2056(b)(7) of the Internal Revenue Code, upon termination of the trust, all of the remaining trust assets, including accrued or undistributed income, shall pass either to the income beneficiary or pursuant to the exercise of a general power of appointment granted to the income beneficiary in favor of the income beneficiary's estate or to any other person or entity, in trust or outright. The general power of

appointment shall be exercisable by the income beneficiary alone and in all events and the income beneficiary, or a fiduciary acting in behalf of the income beneficiary if he or she is then a minor or incompetent, may exercise it in a will or an instrument other than a will unless the instrument creating the power specifically directs otherwise.

SEC. 84. Section 10106 of the Public Contract Code is amended to read:

10106. "Department," as used in this part, means (a) the Department of Water Resources as to any project under the jurisdiction of that department, (b) the Department of General Services as to any project under the jurisdiction of that department, (c) the Department of Boating and Waterways as to any project under the jurisdiction of that department pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code, (d) the Department of Corrections with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, and (e) the Department of Transportation as to all other projects.

"Director," as used in this part, means the director of each department as defined herein respectively.

SEC. 85. Section 10107 of the Public Contract Code is amended to read:

10107. Whenever provision is made by law for any project which is not under the jurisdiction of the Department of Water Resources, the Department of Boating and Waterways pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the Department of Corrections pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, or the Department of General Services, the project shall be under the sole charge and direct control of the Department of Transportation.

SEC. 86. Section 10110 is added to the Public Contract Code, to read:

10110. Where the nature of the work is historic restoration for the state park system, as determined jointly by the director and the Director of Parks and Recreation, the department may authorize the carrying out of the project directly by the Department of Parks and Recreation.

If the estimated total cost of any construction project or work carried out under this section exceeds twenty-five thousand dollars ($25,000), the Department of Parks and Recreation shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. However, the director may authorize the Department of Parks and Recreation to carry out work in excess of twenty-five thousand dollars ($25,000) under the provisions of this section by day labor if the director determines, in consultation with the Director of Parks and Recreation, that the award of a contract,

the acceptance of bids, or the acceptance of further bids is not in the best interests of the state. The Department of Parks and Recreation shall establish, by regulation, criteria to be considered by the Department of Parks and Recreation in requesting authorization from the director to perform all or part of a project by day labor.

SEC. 87. Section 10160 of the Public Contract Code is amended to read:

10160. The department may, and on contracts the estimated cost of which exceeds three hundred thousand dollars ($300,000) the department shall, require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in performing public works. When completed, the questionnaire and financial statement shall be verified under oath by the bidder in the manner in which pleadings in civil actions are verified.

This section does not apply to prospective bidders on contracts for the Department of Transportation.

SEC. 88. Section 10230 of the Public Contract Code is amended to read:

10230. The Office of Administrative Hearings shall adopt rules and regulations, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to implement the claims procedure authorized by this article.

SEC. 89. Section 10232 is added to the Public Contract Code, to read:

10232. Every contract shall contain a statement by which the contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board. For purposes of this section, a finding of contempt does not include any finding which has been vacated, dismissed, or otherwise removed by the court because the contractor has complied with the order which was the basis for the finding. The state may rescind any contract in which the contractor falsely swears to the truth of the statement required by this section.

SEC. 90. Article 7.1 (commencing with Section 10240) is added to Chapter 1 of Division 2 of the Public Contract Code, to read:

Article 7.1. Resolution of Contract Claims

10240. The remedy for the resolution of claims arising under contracts made under the provisions of this chapter shall be arbitration pursuant to this chapter.

10240.1. The claimant may initiate arbitration not later than 180 days after the date of service in person or by mail on the claimant

of the final written decision by the department on the claim. This limitation shall not apply to any claim founded on any cost audit, latent defect, warranty, or guarantee under the contract.

10240.2. A failure by the claimant to pursue diligently and exhaust, as to the claim, the required administrative procedures set forth in the contract under which the claim arose shall be a bar to arbitration hereunder until there has been compliance therewith. Subject to the preceding sentence, if more than 240 days have elapsed since acceptance of the work by the department, the claimant is entitled to arbitration, even though the procedures are not concluded.

10240.3. Unless otherwise agreed by the parties, the arbitration shall be conducted by a single arbitrator selected by the parties from the certified list created by the Public Works Contract Arbitration Committee. If the parties cannot agree on the arbitrator, either party may petition the superior court to appoint one from the panel of arbitrators certified by the Public Works Contract Arbitration Committee.

10240.4. No decision made by a department shall be conclusive on any issue in the arbitration.

10240.5. The Departments of General Services, Transportation, and Water Resources shall jointly adopt and may, from time to time, modify, revise, or repeal uniform regulations to implement the provisions of this article, which regulations shall be consistent with this article and Article 7.2 (commencing with Section 10245). The regulations may include but not need not be limited to:

(a) The method of initiating arbitration.

(b) The place of hearing based upon the convenience of the parties.

(c) Procedures for the selection of a neutral arbitrator.

(d) The form and content of any pleading.

(e) Procedure for conducting hearings.

(f) The providing of experts to assist the arbitrator in the event the assistance is needed.

(g) The content of the award.

(h) Simplified procedures for claims of fifty thousand dollars ($50,000) or less.

Pending adoption of the initial uniform regulations under this section, the arbitration rules set forth in Subchapter 3 (commencing with Section 301) of Chapter 2 of Title 1 of the California Administrative Code, shall govern the conduct of arbitrations under this chapter.

10240.6. As used in this article, "claim" means a demand for monetary compensation or damages, arising under or relating to the performance of a contract awarded under this chapter.

10240.7. As used in this article, "Public Works Contract Arbitration Committee" means the committee created by Article 7.2 (commencing with Section 10245).

10240.8. Unless the parties to the contract otherwise agree, the

arbitration decision shall be decided under and in accordance with the law of this state, supported by substantial evidence and, in writing, contain the basis for the decision, findings of fact, and conclusions of law.

10240.9. A party to the contract may join in the arbitration as a party, any supplier, subcontractor, design professional, surety, or other person who has so agreed and if the joinder is necessary to prevent a substantial risk of the party otherwise being subjected to inconsistent obligations or decisions.

10240.10. Nothing in this article shall be construed as preventing the parties to the contract, after the claim has arisen, from mutually agreeing in writing to waive the provisions of this article and to have the claim litigated in a court of competent jurisdiction.

10240.11. Except as provided in this article and in the regulations adopted pursuant to Section 10240.5, the procedure governing the arbitrations shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. All provisions of Section 1283.05 of the Code of Civil Procedure, except subdivision (e) thereof, apply to the conduct of discovery for any arbitration hereunder.

10240.12. A party may, within the applicable time periods and upon the grounds specified in this section and in Article 1 (commencing with Section 1285) of Chapter 4 of Title 9 of Part 3 of the Code of Civil Procedure, petition the court to confirm, correct, or vacate the award rendered by the arbitrator. However, no department may petition to vacate an award without the prior written authorization of its agency secretary. Except where the parties agree not to have the arbitration decision rendered in accordance with the provisions of Section 10240.8, a court shall vacate the award, or part thereof, if it determines either that the award, or part thereof, is not supported by substantial evidence or that it is not decided under or in accordance with the laws of this state. If the award, or part thereof, is vacated on the grounds set forth in the preceding sentence or in subdivision (d) or (e) of Section 1286.2 of the Code of Civil Procedure or if the court determines that the award does not include a determination of all submitted questions necessary to determine the controversy, the court may order a rehearing before the original arbitrator or remand to the original arbitrator that portion of the dispute which the court concludes the arbitrator failed to determine.

10240.13. The cost of conducting the arbitration shall be borne equally by the parties. The filing fee, witness fees, costs of discovery, or any other cost necessarily incurred by one party shall not be shared by any other party, except that the arbitrator may allow the prevailing party to recover its costs and necessary disbursements, other than attorney's fees, on the same basis as is allowed in civil actions. These costs shall be taxed as in civil actions.

Interest may be recovered as part of the award as in a civil action. The arbitrator has the same authority as a court in awarding interest

and the commencement of the arbitration is equivalent to the filing of an action under subdivision (b) of Section 3287 of the Civil Code for the purpose of an award of interest.

If a party has made an offer of settlement and the award is less favorable than the offer, then the party who has received the offer shall not recover any interest accruing from and after the date on which the offer was made, nor costs of suit.

Reasonable attorney fees may be recovered according to any of the following:

(a) By a party who has made an offer under the circumstances set forth in the preceding sentence but only as to those fees incurred from and after the time of making the offer.

(b) Against a party when substantial evidence establishes that the party has acted frivolously or in bad faith in its demand for, or participation in, the arbitration.

SEC. 91. Article 7.2 (commencing with Section 10245) is added to Chapter 1 of Division 2 of the Public Contract Code, to read:

Article 7.2. Public Works Contract Arbitration Committee

10245. There is hereby established the Public Works Contract Arbitration Committee, which shall consist of seven members, as follows:

(a) Three public members, who shall be appointed by the Governor, each of whom shall have at least ten years' experience with a general contracting firm engaged, during that period, in public works construction in California.

(b) The directors of the Departments of General Services, Transportation, and Water Resources shall each appoint a member, who shall be a state officer or employee within their respective departments. Each member shall serve at the pleasure of the director who appointed the member.

(c) The Director of the Office of Administrative Hearings shall be a nonvoting member of the Public Works Contract Arbitration Committee.

10245.1. Each member appointed by the Governor shall serve for a term of four years, but shall continue in office until the successor to the member is appointed. Each member shall serve without compensation, but shall be reimbursed for travel and other expenses necessarily incurred in the performance of the member's duties.

10245.2. The committee may make recommendations to the departments respecting the arbitration practice and procedure provided by Article 7.1 (commencing with Section 10240). The departments shall consult and confer with the committee respecting the content of the uniform regulations governing the conduct of arbitrations under Article 7.1 (commencing with Section 10240) and shall consider the recommendations in adopting uniform regulations pursuant to Section 10240.5.

10245.3. The committee may establish standards and

qualifications for the certification of arbitrators and certify as arbitrators persons meeting such standards and qualifications. The committee may remove persons from its list of certified arbitrators.

10245.4. The Office of Administrative Hearings shall provide administrative services, facilities, and fiscal support to implement this article and Article 7.1 (commencing with Section 10240). The cost thereof shall be recovered through filing fees imposed for each arbitration.

SEC. 92. Section 10263 of the Public Contract Code is amended to read:

10263. Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the contractor securities equivalent to the amount withheld pursuant to Section 10261 shall be deposited with the Treasurer or a state or federal chartered bank as the escrow agent, who shall pay such moneys to the contractor upon satisfactory completion of the contract.

Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit.

The contractor shall be beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain as a minimum, all of the following provisions:

(a) The amount of securities to be deposited.

(b) The terms and conditions of conversion to cash in case of the default of the contractor.

(c) The termination of the escrow upon completion of the contract.

SEC. 93. Section 10265 of the Public Contract Code is amended to read:

10265. A claim pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code is not required, but legal action on any claim shall be commenced within six months after final decision of the department or determination of rights by the hearing officer. The department may compromise or otherwise settle any claims arising from the contract at any time.

SEC. 94. Section 13409 of the Revenue and Taxation Code is amended to read:

13409. Transfers of any interest in real or personal property and all rights and powers relating to the property which have been duly disclaimed pursuant to Chapter 12 (commencing with Section 190) of Division 1 of the Probate Code or in any other valid manner, shall be subject to the inheritance tax only if, and to the same extent and in the same manner as, the transfer would have been subject to the tax if the interest, rights, and powers had been originally created in favor of and transferred to the same persons and in the same shares

in which they are effectively distributed or otherwise disposed of, after giving full effect to the disclaimers pursuant to the governing instrument, if any, and Chapter 12 (commencing with Section 190) of Division 1 of the Probate Code and all other applicable law.

SEC. 95. Section 15209 of the Revenue and Taxation Code is amended to read:

15209. A disclaimer of an interest in real or personal property or of rights or powers relating to the interest pursuant to Chapter 12 (commencing with Section 190) of Division 1 of the Probate Code, or in any valid manner, shall not be deemed to constitute a gift by the person so disclaiming for purposes of the gift tax imposed by Section 15201.

SEC. 96. Section 17053 of the Revenue and Taxation Code is amended to read:

17053. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (g)), an amount equal to the amount determined in subdivisions (b) and (c).

(b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program for employees conducted principally in this state.

(2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the taxable year in which the ridesharing vehicles are purchased.

(3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or commuter motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total annual payments to the lessor or vehicle provider, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision shall not be eligible for this credit.

(d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the employer's business activities in the absence of an employer-sponsored ridesharing incentive program.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in

succeeding taxable years, with respect to which this section shall remain in effect, notwithstanding subdivision (g), for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest taxable years possible.

(f) (1) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent such credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced so that the combined effective credit shall not exceed 30 percent of the costs, notwithstanding the carryover provisions of subdivision (e).

(2) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced by the amount of the increase in the federal credit.

(g) For purposes of this section:

(1) "Employer" means a taxpayer who is either of the following:

(A) A person for whom services are performed by employees, except government agencies.

(B) A private educational institution which enrolls students at higher than the secondary level.

(2) "Employee" means either of the following:

(A) An individual who performs service for an employer for more than eight hours per week for remuneration.

(B) Any commuting student, as defined in paragraph (3).

(3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the "employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.

(4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal or other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.

(5) "Company shuttle bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:

(i) Transporting employees on a scheduled-route basis.

(ii) Interfacing with public transportation facilities.

(iii) Transporting employees on a demand-response basis.

(C) Is acquired by the taxpayer on or after the date of the enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which the vehicle is placed in service.

(6) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

(D) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service.

(7) "Company motor pool vehicle" means a highway vehicle which meets all of the following criteria:

(A) Is an automobile with a gross vehicle weight of 6000 pounds or less.

(B) Meets or exceeds certain fuel efficiency standards pursuant to the provisions of Title II of Public Law 95-618.

(C) Is made available to all employees on a nondiscriminatory basis in the normal course of the taxpayer's business.

(D) Is acquired by the taxpayer on or after the date of the enactment of this section.

(E) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which the vehicle is placed in service.

(8) "Net tax" means the tax imposed under Section 17041 or 17048 minus all credits except the credits provided by Section 17053.5 (relating to the renters' credit), Section 17061 (relating to the excess state disability insurance withheld), and Section 18551.1 (relating to income tax withheld).

(h) This section shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1981, and ending on or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 97. Section 17599 of the Revenue and Taxation Code is amended to read:

17599. (a) In the case of a taxpayer engaged in an activity to which this section applies, any loss from that activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subdivision (b)) for the activity at the close of the taxable year. Any

loss from the activity not allowed under this section for the taxable year shall be treated as a deduction allocable to the activity in the first succeeding taxable year.

(b) (1) For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

(A) The amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

(B) Amounts borrowed with respect to the activity (as determined under paragraph (2)).

(2) For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he or she—

(A) Is personally liable for the repayment of the amounts, or

(B) Has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in the property).

No property shall be taken into account as security if the property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

(3) For purposes of subparagraph (B) of paragraph (1), amounts borrowed shall not be considered to be at risk with respect to an activity if the amounts are borrowed from any person who—

(A) Has an interest (other than an interest as a creditor) in the activity, or

(B) Has a relationship to the taxpayer specified within any one of the paragraphs of Section 17288.

(4) Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements.

(5) If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considered to be at risk (within the meaning of subdivision (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subdivision (a)) is allowable as a deduction.

(c) (1) This section applies to any taxpayer engaged in the activity of—

(A) Holding, producing, or distributing motion picture films or video tapes,

(B) Farming (as defined in Section 17599.1(e)),

(C) Leasing any Section 18211 property (as defined in paragraph (3) of subdivision (a) of Section 18211),

(D) Exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income, or

(E) Exploring for, or exploiting, geothermal deposits (as defined in Section 17686).

(2) For purposes of this section, a taxpayer's activity with respect to each—

(A) Film or video tape,

(B) Section 18211 property which is leased or held for leasing,

(C) Farm,

(D) Oil and gas property (as defined under Section 614 of the Internal Revenue Code of 1954), or

(E) Geothermal property (as determined under Section 614 of the Internal Revenue Code of 1954),

shall be treated as a separate activity. A partner's interest in a partnership shall be treated as a single activity to the extent that the partnership is engaged in activities described in any subparagraph of this paragraph.

(3) (A) In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

(i) Engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

(ii) Which is not described in paragraph (1).

(B) Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as one activity if—

(i) The taxpayer actively participates in the management of the trade or business, or

(ii) The trade or business is carried on by a partnership and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business.

(C) The Franchise Tax Board shall prescribe which activities described in subparagraph (A) shall be aggregated or treated as separate activities.

(D) In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subdivision (a) shall not apply to losses from that activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding the real property.

(E) In the case of an activity described in subparagraph (A) of paragraph (3) of subdivision (b) shall apply only to the extent prescribed by the Franchise Tax Board.

(d) For purposes of this section, "loss" means the excess of the deductions allowable under this part for the taxable year (determined without regard to the first sentence of subdivision (a)) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from that activity.

(e) Except as provided in paragraphs (1) and (2), this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1976. For purposes of this section, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or

incurred in that period.

(1) (A) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to—

(i) Deductions for depreciation or amortization with respect to property the principal production of which began before January 1, 1977, and for the purchase of which there was on January 1, 1977, and at all times thereafter a binding contract, and

(ii) Deductions attributable to producing or distributing property the principal production of which began before January 1, 1977.

(B) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1976, if—

(i) On December 31, 1976, there was an agreement with the director or a principal motion picture star, or on or before December 31, 1976, there had been expended (or committed to the production) an amount not less than the lower of one hundred thousand dollars ($100,000) or 10 percent of the estimated costs of producing the film, and

(ii) The production takes place in the United States. Subparagraph (A) shall apply only to taxpayers who held their interests on December 31, 1976. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1976.

(2) (A) In the case of any activity described in subparagraph (C) of paragraph (1) of subdivision (c), this section shall not apply with respect to—

(i) Leases entered into before January 1, 1977, and

(ii) Leases where the property was ordered by the lessor or lessee before January 1, 1977.

(B) Subparagraph (A) shall apply only to taxpayers who held their interest in the property on December 31, 1976.

(f) (1) If zero exceeds the amount for which the taxpayer is at risk in any activity at the close of any taxable year—

(A) The taxpayer shall include in his or her gross income for the taxable year (as income from that activity) an amount equal to the excess, and

(B) An amount equal to the amount so included in gross income shall be treated as a deduction allocable to the activity for the first succeeding taxable year.

(2) The excess referred to in paragraph (1) shall not exceed—

(A) The aggregate amount of the reductions required by paragraph (5) of subdivision (b) with respect to the activity for all prior taxable years beginning after December 31, 1978, reduced by

(B) The amounts previously included in gross income with respect to such activity under this subdivision.

(g) The amendments made to this section by the 1979–80 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1978.

(h) If the amount for which the taxpayer is at risk in any activity

as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, subdivision (f) shall be applied with respect to the activity by substituting the negative amount for zero.

SEC. 98. Section 17916 of the Revenue and Taxation Code is amended to read:

17916. The amount includible in the gross income of a successor in interest of a deceased partner under Section 17896 shall be considered income in respect of a decedent under Sections 17831 to 17837, inclusive.

SEC. 99. Section 18103 of the Revenue and Taxation Code is amended to read:

18103. (a) If—

(1) A sale of real property gives rise to indebtedness to the seller which is secured by the real property sold, and

(2) The seller of the property reacquires the property in partial or full satisfaction of the indebtedness,

then, except as provided in subdivisions (b) and (d), no gain or loss shall result to the seller from the reacquisition, and no debt shall become worthless or partially worthless as a result of the reacquisition.

(b) (1) In the case of a reacquisition of real property to which subdivision (a) applies, gain shall result from the reacquisition to the extent that—

(A) The amount of money and the fair market value of other property (other than obligations of the purchaser) received, prior to the reacquisition, with respect to the sale of such property, exceeds

(B) The amount of the gain on the sale of the property returned as income for periods prior to the reacquisition.

(2) The amount of gain determined under paragraph (1) resulting from a reacquisition during any taxable year beginning after December 31, 1964, shall not exceed the amount by which the price at which the real property was sold exceeded its adjusted basis, reduced by the sum of—

(A) The amount of the gain on the sale of the property returned as income for periods prior to the reacquisition of the property, and

(B) The amount of money and the fair market value of other property (other than obligations of the purchaser received with respect to the sale of the property) paid or transferred by the seller in connection with the reacquisition of the property.

For purposes of this paragraph, the price at which real property is sold is the gross sales price reduced by the selling commissions, legal fees, and other expenses incident to the sale of the property which are properly taken into account in determining gain or loss on the sale.

(3) Except as provided in this section, the gain determined under this subdivision resulting from a reacquisition to which subdivision (a) applies shall be recognized, notwithstanding any other provision of this part.

(c) If subdivision (a) applies to the reacquisition of any real

property, the basis of the property upon such reacquisition shall be the adjusted basis of the indebtedness to the seller secured by the property (determined as of the date of reacquisition), increased by the sum of—

(1) The amount of the gain determined under subdivision (b) resulting from the reacquisition, and

(2) The amount described in subparagraph (B) of paragraph (2) of subdivision (b).

If any indebtedness to the seller secured by the property is not discharged upon the reacquisition of the property, the basis of the indebtedness shall be zero.

(d) If, prior to a reacquisition of real property to which subdivision (a) applies, the seller has treated indebtedness secured by the property as having become worthless or partially worthless—

(1) The seller shall be considered as receiving, upon the reacquisition of the property, an amount equal to the amount of the indebtedness treated by him as having become worthless, and

(2) The adjusted basis of the indebtedness shall be increased (as of the date of reacquisition) by an amount equal to the amount so considered as received by the seller.

(e) If—

(1) Subdivision (a) applies to a reacquisition of real property with respect to the sale of which—

(A) An election under Section 17155 (relating to special one-time exclusion of gain from sale or exchange or residence) is in effect, or

(B) Gain was not recognized under Sections 18091 to 18100, inclusive (relating to sale or exchange of residence); and

(2) Within one year after the date of the reacquisition of the property by the seller, the property is resold by him or her,

then, as prescribed by the Franchise Tax Board, subdivisions (b), (c), and (d) shall not apply to the reacquisition of the property and, for purposes of applying Sections 17155 and 18091 to 18100, inclusive, the resale of the property shall be treated as a part of the transaction constituting the original sale of the property.

(f) As prescribed by the Franchise Tax Board, if an installment obligation is indebtedness to the seller which is described in subdivision (a), and if the obligation is, in the hands of the taxpayer, an obligation with respect to which subdivision (b) of Section 17834 applies, then—

(1) For purposes of subdivision (a), acquisition of real property by the taxpayer shall be treated as reacquisition by the seller, and

(2) The basis of the real property acquired by the taxpayer shall be increased by an amount equal to the deduction under Section 17836 which would (but for this subdivision) have been allowable to the taxpayer with respect to the gain on the exchange of the obligation for the real property.

SEC. 100. Section 18685.8 of the Revenue and Taxation Code is amended to read:

18685.8. (a) The amount the underpayment of estimated tax shall be the excess of whichever is the lesser of—

(1) The amount of the installment which would have been required to be paid under subdivision (a) of Section 18556 based upon the estimated tax set forth in subdivision (a) of Section 18415, or

(2) The amount of the installment which would have been required to be paid under subdivision (a) of Section 18556 if the estimated tax were equal to 80 percent (66⅔ percent in the case of individuals whose estimated gross income from farming or fishing, including oyster farming, for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year) of the tax shown on the return for the taxable year less any credits allowable under this part,

over the amount, if any, of the installment paid on or before the last date prescribed for payment.

(b) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier—

(1) The 15th day of the fourth month following the close of the taxable year.

(2) With respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (a) for that installment date.

(c) Notwithstanding the provisions of the preceding subdivisions, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds whichever of the following is the least—

(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months, or

(2) An amount equal to 80 percent (66⅔ percent in the case of individuals referred to in subdivision (b) of Section 18435, relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this paragraph, the taxable income shall be placed on an annualized basis by—

(A) Multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid, and

(B) Dividing the resulting amount by the number of months in

the taxable year ending before the month in which such installment date falls, or

(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(4) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the taxpayer's return for, and the law applicable to, the preceding taxable year.

(d) For purposes of applying this section—

(1) The estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under Section 18551.1 (relating to tax withheld at source on wages),

(2) The amount of the credit allowed under Section 18551.1 for the taxable year shall be deemed a payment of estimated tax, and an equal part of that amount shall be deemed paid on each installment date (determined under Section 18556) for the taxable year, unless the taxpayer established the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld, and

(3) For purposes of paragraph (1) of subdivision (c), "preceding taxable year" means the last preceding taxable year for which a tax was imposed upon all of an individual's taxable income.

(e) For purposes of subdivisions (a) and (c), "tax" means the tax imposed by this part reduced by the credits against tax allowed by this part, other than the credit against tax provided by Section 18551.1 (relating to tax withheld on wages).

(f) The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Franchise Tax Board.

SEC. 101. Section 20622 of the Revenue and Taxation Code is amended to read:

20622. The claim for postponement shall be filed after May 15 of the calendar year in which the fiscal year for which postponement is claimed begins, and on or before December 10 of that fiscal year; if December 10th falls on Saturday, Sunday, or a legal holiday, the date is extended to the next business day.

SEC. 102. Section 23605 of the Revenue and Taxation Code is amended to read:

23605. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in subdivisions (b) and (c).

(b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an

employer-sponsored ridesharing incentive program for employees conducted principally in this state.

(2) The credit provided in paragraph (1) shall be claimed in the state return for the income year in which the ridesharing vehicles are purchased.

(3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

(c) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or commuter motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total annual payments to the lessor or vehicle provider, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision is not eligible for this credit.

(d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the employer's business activities in the absence of an employer-sponsored ridesharing incentive program.

(e) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds those taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect, notwithstanding subdivision (g), for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest income years possible.

(f) (1) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced so that the combined effective credit shall not exceed 30 percent of the costs, notwithstanding the carryover provisions of subdivision (e).

(2) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c)

shall be reduced by the amount of the increase in the federal credit.

(g) For purposes of this section:

(1) "Employer" means either of the following:

(A) A taxpayer for whom services are performed by employees, except government agencies.

(B) A taxpayer which is a private educational institution which enrolls students at higher than the secondary level.

(2) "Employee" means either of the following:

(A) An individual who performs service for an employer for more than eight hours per week for remuneration.

(B) Any commuting student, as defined in paragraph (3).

(3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the "employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.

(4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal or other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.

(5) "Company shuttle bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:

(i) Transporting employees on a scheduled-route basis.

(ii) Interfacing with public transportation facilities.

(iii) Transporting employees on a demand-response basis.

(C) Is acquired by the taxpayer on or after the date of the enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which the vehicle is placed in service.

(6) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

(D) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which such vehicle is placed in service.

(7) "Company motor pool vehicle" means a highway vehicle

which meets all of the following criteria:

(A) Is an automobile with a gross vehicle weight of 6,000 pounds or less.

(B) Meets or exceeds certain fuel efficiency standards pursuant to the provisions of Title II of Public Law 95-618.

(C) Is made available to all employees on a nondiscriminatory basis in the normal course of the taxpayer's business.

(D) Is acquired by the taxpayer on or after the date of the enactment of this section.

(E) With respect to which the taxpayer makes an election under this paragraph on its return for the income year in which the vehicle is placed in service.

(h) This section shall be applicable in the computation of taxes for income years beginning on or after January 1, 1981, and ending on or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 103. Section 24343.5 of the Revenue and Taxation Code is amended to read:

24343.5. (a) Except as otherwise provided in this section, there shall be allowed to an employer a deduction as an ordinary and necessary expense paid or incurred during the income year in carrying on any trade or business those expenses involved in each of the following activities:

(1) Subsidizing employees commuting in third-party vanpools.

(2) Subsidizing employees commuting in private commuter buses.

(3) Subsidizing monthly transit passes for its employees or for use by the employee's dependents, except that no deduction shall be allowed for transit passes issued for the use of elementary and secondary school students.

(4) Subsidizing employees commuting in subscription taxipools.

(5) In the case of an employer who offers free parking to its employees, offering a cash equivalent to employees who do not require parking.

(6) Providing free or preferential parking to carpools and vanpools.

(7) Making facility improvements to encourage employees, for the purpose of commuting from their homes, to participate in ridesharing arrangements, to use bicycles, or to walk. These facility improvements may include, but are not limited to, any of the following: the construction of bus shelters; the installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms; and parking lot modifications to provide carpools, vanpools, or buspools with preferential treatment. The cost of these facility improvements shall be allowed as a depreciation deduction. Notwithstanding subdivision (c), the depreciation deduction shall be allowable over a 36-month period.

(8) Providing company commuter van or bus service to its employees and to others for commuting from their homes, but not for transportation required as part of the employer's business activities, except as otherwise provided in this section. The capital costs of providing this service shall not be an eligible deduction under this section.

(9) Providing to employees tranportation services which are required as part of the employer's business activities to the extent that the transportation would be provided by employees without reimbursement in the absence of an employer-sponsored ridesharing incentive program. The capital costs of providing this service shall not be an eligible deduction under this section.

(b) For purposes of this section:

(1) "Employer," "employee," "commuting student," "employer-sponsored ridesharing incentive program," and "company commuter bus or van" shall have the meanings specified in Section 23605.

(2) "Third-party vanpool" means a vanpool that is not administered and operated by an employer or its employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.

(3) "Vanpool" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to 15 adult passengers.

(4) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.

(5) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(6) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis, following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(7) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term shall include ridesharing arrangements known as carpools, vanpools, and buspools.

(8) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than eight adult passengers.

(9) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(c) This section shall be applicable in the computation of taxes for income years beginning on or after January 1, 1981, and ending on

or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 104. Section 25101 of the Revenue and Taxation Code is amended to read:

25101. When the income of a taxpayer subject to the tax imposed under this part is derived from or attributable to sources both within and without the state the tax shall be measured by the net income derived from or attributable to sources within this state in accordance with the provisions of Article 2 (commencing with Section 25120). However, any method of apportionment shall take into account as income derived from or attributable to sources without the state, income derived from or attributable to transportation by sea or air without the state, whether or not the transportation is located in or subject to the jurisdiction of any other state, the United States or any foreign country.

If the Franchise Tax Board reapportions net income upon its examination of any return, it shall, upon the written request of the taxpayer, disclose to it the basis upon which its reapportionment has been made.

SEC. 105. Section 25.5 of the Vehicle Code is amended to read:

25.5. It is unlawful for any person to falsely represent himself or herself in any manner as an employee of the Department of Motor Vehicles for the purpose of obtaining records or information to which he or she is not entitled.

SEC. 106. Section 627 of the Vehicle Code is amended to read:

627. (a) "Engineering and traffic survey", as used in this code, means a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities.

(b) An engineering and traffic survey shall include, among other requirements deemed necessary by the department, consideration of all of the following:

(1) Prevailing speeds as determined by traffic engineering measurements.

(2) Accident records.

(3) Highway, traffic, and roadside conditions not readily apparent to the driver.

SEC. 107. Section 9808 of the Vehicle Code is amended to read:

9808. If the vehicle is acquired by the department, it shall not be registered by the department at any time thereafter, but shall be reduced to junk and sold. The proceeds, if any, of the sale shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

SEC. 108. Section 11301.5 of the Vehicle Code is amended to read:

11301.5. The Director of Motor Vehicles may order the refund of a cash deposit filed with the department pursuant to Section 11301.3 three years from the date a vehicle verifier has ceased to be licensed,

if the director is satisfied that there are no outstanding claims against the funds deposited or assigned. A judge of a municipal or superior court may order the return of a cash deposit filed with the department prior to the expiration of three years from the date a vehicle verifier has ceased to be licensed if there is evidence satisfactory to the court that there are no outstanding claims against the security deposited by the vehicle verifier.

If the director, department, or state is a defendant in any action instituted to recover all or any part of the deposited cash, or any action is instituted by the director, department, or state to determine those entitled to any part of the funds, the director, department, or state shall be paid reasonable attorney fees and costs from the funds. Costs shall include those administrative costs incurred in processing claims against the security posted in lieu of bond pursuant to Section 11301.3.

SEC. 109. Section 11511 of the Vehicle Code is amended to read:

11511. In any administrative action to revoke or suspend an automobile dismantler's license:

(a) Proof that a stolen vehicle of a type subject to registration under this code, or a part thereof, was found in the possession of, or upon the premises of, the dismantler shall constitute in evidence a prima facie presumption that the dismantler had knowledge that the vehicle was stolen. This presumption may be rebutted by satisfactory evidence that the dismantler has complied with paragraphs (1), (2), (3), and (5) of subdivision (a) of Section 11520.

(b) Proof that a vehicle of a type subject to registration under this code is found in a partially dismantled condition in the possession of, or upon the premises of, the dismantler shall constitute in evidence a prima facie presumption that the vehicle was partially dismantled by the dismantler. The presumption may be rebutted by a business record of the dismantler reflecting the partially dismantled condition of the vehicle on the date of acquisition.

SEC. 110. Section 16054 of the Vehicle Code is amended to read:

16054. Proof may be established by filing with the department satisfactory evidence:

(a) That the owner had an automobile liability policy, a motor vehicle liability policy, or bond in effect at the time of the accident with respect to the driver or the motor vehicle involved in the accident, unless it is established that at the time of the accident the motor vehicle was being operated without the owner's permission, express or implied, or was parked by a driver who had been operating the vehicle without permission.

(b) That the driver of the motor vehicle involved in the accident, if he was not the owner of the motor vehicle, had in effect at the time of the accident an automobile liability policy or bond with respect to his or her operation of the motor vehicle not owned by him or her.

(c) That such liability as may arise from the driver's operation of the motor vehicle involved in the accident is, in the judgment of the department, covered by some form of liability insurance or bond.

(d) Any automobile liability policy or bond referred to in this section shall comply with the requirements of Section 16056 and Sections 11580, 11580.1, and 11580.2 of the Insurance Code, but need not contain provisions other than those required by those sections, and shall not be governed by Chapter 3 (commencing with Section 16430).

SEC. 111. Section 16071 of the Vehicle Code is amended to read:

16071. The department shall suspend the driving privilege of any person upon receiving notice from another state that the person's driving privilege in that state has been suspended for failure to meet the proof of financial responsibility provisions of the law in that state, if the suspension in that state was taken on grounds that would have resulted in a suspension in this state.

SEC. 112. Section 16433 of the Vehicle Code is amended to read:

16433. A certificate or certificates shall certify that the motor vehicle liability policy therein cited shall not be canceled except upon 10 days' prior written notice to the department.

SEC. 113. Section 16436 of the Vehicle Code is amended to read:

16436. Proof of ability to respond in damages may be given by the written certificate of a self-insurer holding a certificate of self-insurance for bodily injury and property damage issued by the department.

The certification shall name the employee in whose behalf it is filed and shall bind the self-insurer in a like manner and to the same amounts as provided for in Section 16430 for damages arising from the operation of a motor vehicle by the employee within the scope of his or her employment by the self-insurer. In that case, the department shall restrict any driver's license issued to the employee to the operation of motor vehicles owned by the self-insurer within the scope of his or her employment by the self-insurer.

The certificate shall be canceled upon 10 days' prior written notice to the department by the self-insurer.

SEC. 114. Section 21655.5 of the Vehicle Code is amended to read:

21655.5. The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may authorize or permit exclusive or preferential use of highway lanes for high-occupancy vehicles. Prior to establishing the lanes, competent engineering estimates shall be made of the effect of the lanes on safety, congestion, and highway capacity.

The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, shall place and maintain, or cause to be placed and maintained, signs and other official traffic control devices to designate the exclusive or preferential lanes and to advise motorists of the hours of high-occupancy vehicle usage and the applicable vehicle occupancy levels. No person shall drive a vehicle upon those lanes except in conformity with the instructions imparted by the signs and other official traffic control devices.

It is the intent of the Legislature in amending this section to

stimulate and encourage the development of ways and means of relieving traffic congestion on California highways and, at the same time, to encourage individual citizens to pool their vehicular resources and thereby conserve fuel and lessen emission of air pollutants.

SEC. 115. Section 22507.6 of the Vehicle Code is amended to read:

22507.6. Local authorities may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping. No ordinance or resolution relating to the parking or standing of commercial vehicles in a residential district shall be effective with respect to any commercial vehicle making pickups or deliveries of goods, wares, or merchandise from or to any building or structure located on the restricted street or highway, or for the purpose of delivering materials to be used in the repair, alteration, remodeling, or reconstruction of any building or structure for which a building permit has previously been obtained. No such ordinance or resolution shall be effective until the street or highway, or portion thereof, has been sign-posted in accordance with the uniform standards and specifications of the Department of Transportation, or local authorities have caused to be posted in a conspicuous place at each entrance to the street a notice not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, setting forth the day or days and hours parking is prohibited. As used in this section, "entrance" means the intersection of any street or streets comprising an area of restricted parking for street-sweeping purposes on the same day or days and hours with another street or highway not subject to such a parking restriction, or subject to parking restrictions on different days and hours.

SEC. 116. Section 27156.2 of the Vehicle Code, as added by Chapter 669 of the Statutes of 1981, is amended and renumbered to read:

27156.3. Notwithstanding any other provision of law, any motor vehicle of mosquito abatement, vector control, or pest abatement districts or agencies, any authorized emergency vehicle as defined in Section 165, except subdivision (f) thereof, and any ambulance used by a private entity under contract with a public agency, is exempt from requirements imposed pursuant to California law and the regulations adopted pursuant thereto for motor vehicle pollution control devices.

SEC. 117. Section 34003 of the Vehicle Code is amended to read:

34003. As used in this division:

(a) "Cargo tank" means any container having a volumetric capacity in excess of 120 gallons that is used for the transportation of flammable liquids or combustible liquids. This term includes pumps, meters, valves, fittings, piping, and other appurtenances attached to a tank vehicle and used in connection with the flammable liquids or combustible liquids being transported in the cargo tank.

"Cargo tank" does not, however, include any tank used to carry

fuel necessary for the operation of the vehicle or any equipment of the vehicle.

(b) "Tank vehicle" means any truck, trailer, or semitrailer equipped with a cargo tank which is used for the transportation of flammable liquids or combustible liquids within this state.

(c) "Flammable liquids" and "combustible liquids" mean such substances as defined by the regulations adopted by the commissioner pursuant to Section 2402.7.

SEC. 118. Section 38060 of the Vehicle Code is amended to read:

38060. (a) Whenever any person, after making application for identification of an off-highway motor vehicle subject to identification, or after the identification either as owner or legal owner, moves or acquires a new address different from the address shown in the application or upon the certificate of ownership or identification certificate, that person shall, within 10 days thereafter, notify the department of his or her old and new addresses.

(b) Any owner having notified the department as required in subdivision (a), shall immediately mark out the former on the face of the certificate and write with pen and ink or type the new on the face of the certificate immediately below the former address and initial the entry.

SEC. 119. Section 40610 of the Vehicle Code is amended to read:

40610. (a) If after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and all of the conditions set forth in subdivision (b) are met and the investigating officer decides to take enforcement action, he or she may prepare, in triplicate, and the violator shall sign, a written notice containing his or her promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(b) Use of the notice to correct violation, as provided by this section, is authorized when all of the following conditions exist:

(1) The violation does not evidence fraud or persistent neglect.

(2) The violation has not presented, and does not present, an immediate safety hazard.

(3) The alleged violator agrees to, and is able to, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) are not met, the investigating officer may issue a notice to appear in accordance with Article 2 (commencing with Section 40500), or take other appropriate enforcement action.

(d) The notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

SEC. 120. The heading of Chapter 3 (commencing with Section 4330) of Division 4 of the Welfare and Institutions Code is amended

and renumbered to read:

CHAPTER 4. PILOT PROJECT FOR BRAIN-DAMAGED PERSONS

SEC. 121. Section 4656 of the Welfare and Institutions Code, as added by Chapter 380 of the Statutes of 1978, is repealed.

SEC. 122. Section 4656 of the Welfare and Institutions Code, as added by Chapter 429 of the Statutes of 1978, is amended to read:

4656. (a) A qualified physician and surgeon who diagnoses a developmental disability, as defined in subdivision (a) of Section 4512, of a patient who is a minor shall attempt to determine from the patient, the parents or guardian of the patient, or the regional center for the area whether the person has been previously referred to the regional center for the area. If the patient has not been previously referred to the regional center, the physician and surgeon shall inform a parent or the guardian of the patient of the existence of the regional center for the area, its address and telephone number, and shall describe to the person the services available through the regional center, and shall, upon request of the parent or guardian of the patient, refer in writing the patient through his or her parent or guardian to the regional center. Upon obtaining the consent of the patient's parent or guardian, the physician and surgeon shall notify the regional center of the referral.

For the purposes of this section, "qualified physician and surgeon" means those physicians and surgeons who have recognized and accredited training and a specialized pediatric practice in childhood disabilities.

(b) Each regional center shall maintain a record of every developmentally disabled person under the age of 18 years known by the regional center to have been referred to it for its services, whether or not services are actually provided.

(c) The state department shall transmit a copy of this section and of subdivision (a) of Section 4512 to every physician and surgeon licensed to practice in this state and every general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. A list of the name and address of each regional center and such other pertinent information as the state department deems appropriate shall also be transmitted, both in English and Spanish.

(d) It is not the intent of the Legislature in enacting this section to prevent any physician and surgeon subject to subdivision (a) from providing care or treatment to a developmentally disabled minor or to deprive developmentally disabled minors of adequate care provided through sources other than a regional center.

SEC. 123. Section 2 of Chapter 91 of the Statutes of 1927 is amended to read:

Sec. 2. Any water conservation district organized and established as herein provided shall have all of the following powers:

A. To have perpetual succession.

B. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

C. To adopt a seal and alter it at pleasure.

D. To take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and to hold, use, enjoy, and to sell, lease, or otherwise dispose of, real and personal property of every kind, within or without the district, necessary or convenient to the full exercise of its powers.

E. To make and perform any agreement with the United States, under the federal reclamation laws or otherwise, to the extent that it is not inconsistent with any state law applicable to the district, or with any state, county, district of any kind or zone or subdivision of such district, public corporation, or any person or any number of them, for any of the following purposes:

(1) For the joint acquisition, disposition, or operation of any property of a kind which might be acquired by the district.

(2) To cooperate to obtain rights, permits, or licenses to appropriate water, and to purchase, acquire, sell, lease, or otherwise transfer or dispose of those rights, permits, or licenses in accordance with the agreement.

(3) For the transfer of assets, for the public purpose of water conservation, to the United States, the state, or any county, district of any kind, or zone or subdivision of such district, or a public corporation of the state, having power to use those assets for purposes of water conservation and to make the transfer without consideration.

(4) To acquire assets, for the public purpose of water conservation, by transfer without consideration from the United States, the state, or any county, district of any kind, or zone or subdivision of such district, or a public corporation of the state, having the power to use those assets for purposes of water conservation.

(5) To acquire, store, and distribute a surface water supply for purposes of irrigation, seasonal storage, or underground replenishment, or for any or all those purposes.

(6) To provide for the construction, operation, or maintenance of such works, facilities, or operations within or without the district boundaries as the board deems necessary to protect the land in or property of the district, from damage by flood or overflow, to replenish underground water, or to store, supply, or distribute surface waters to lands within the district, and to contribute to the cost or expense thereof out of its general fund or any special fund provided therefor. Nothing contained in this act shall be deemed to empower a district organized hereunder to acquire a supply of water or any right to a supply of water from an underground source. However, this limitation does not apply to any district, all or any portion of the water supply of which is secured from an underground source on October 1, 1953; except that the acquisition is authorized

if acquired incidental to acquisition of land for other purposes of the district; provided, that the district shall not exercise those rights so acquired.

F. To make surveys and investigations of the water supply and resources of the district; to conserve and store water by acquiring dams, dam sites, reservoirs, reservoir sites, canals, ditches and conduits, and constructing dams and reservoirs for storage of water, and by spreading and sinking water; to build, construct, or acquire the necessary dams, dam sites, reservoirs, reservoir sites, canals, ditches and conduits, spreading basins, sinking wells, and sinking basins therefor; to maintain, operate, and repair any of the constructions herein named; to appropriate, acquire, and conserve water and water rights for any useful purpose; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of, any action or proceeding involving or affecting the ownership or use of water or water rights within the district, used or useful for any purpose of the district, or of common benefit to the lands situated therein; to commence, maintain, intervene in, defend, and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or unnavigable river, including the natural subterranean supply of waters therefrom, which may be used, or useful, for any purpose of the district, or a common benefit to the lands within the district or its inhabitants; and to commence, maintain, and defend actions and proceedings to prevent any such interference with those waters as may endanger the inhabitants or lands of the district.

G. To exercise the right of eminent domain to take any property necessary to be used for spreading basins, sinking wells, or sinking basins, or to operate or to make use of them, or otherwise necessary to accomplish the purposes of this act.

H. To cause taxes to be levied, as herein provided, for the purpose of paying any obligations of the district and to accomplish the purposes of this act in the manner herein provided.

I. To make contracts, to employ labor, and to do all acts necessary for the full exercise of the powers herein granted; provided, that the district shall not have power to commence, intervene in, compromise, maintain, or defend actions, or pay their costs in controversies between the owners of lands or water rights within the boundaries of the district and which do not involve taking water outside of, or away from, the district.

J. To fix and collect tolls or charges for water supplied for surface irrigation.

K. To submit any contract or proposed contract to the superior court of the county in which is situated the office of the board to determine the validity thereof and the authority of the district to make the contract. The validation proceedings shall be had as in the ordinary case of the judicial determination of the validity of irrigation district bonds, and with like effect.

L. To provide for, construct, maintain, and operate such works

and facilities, within or without its boundaries, as the board may deem necessary to protect the land in, or the property of, the district, from damage by flood or overflow, or to store, supply, or distribute surface waters to lands within the district, and to pay the cost and expense thereof out of its general fund or any special fund provided therefor. Nothing contained in this act shall be deemed to empower a district organized hereunder to acquire a supply of water or any right to a supply of water from an underground source. However, this limitation does not apply to any district, all or any portion of the water supply of which is secured from an underground source on October 1, 1953; except that the acquisition is authorized if acquired incidental to acquisition of land for other purposes of the district; provided, that the district shall not exercise those rights so acquired.

M. To establish rules and regulations regarding the sale of water, its distribution, and the collection of tolls and charges therefor, and to therein provide for payment in advance of delivery and for refusal of water delivery to persons against whom there are delinquent water tolls or charges. Nothing herein shall be construed as requiring the district to deliver water to any person or lands within the district, ratably or otherwise.

N. To generate and sell at wholesale hydroelectric power to the United States of America or any board, department, or agency thereof, to the state for the purposes of the State Water Resources Development System, and to any other public agency or district, private corporation, or any other person or entity, or any combination thereof, engaged in the sale of electric power at retail, and to construct or otherwise acquire and operate and maintain any and all works and facilities necessary or convenient for the generation, transmission, and sale of hydroelectric power. The power to acquire works and facilities shall not include, and nothing in this act shall be construed to allow, the acquisition of property already employed in the generation of hydroelectric power for public utility purposes, except by mutual agreement between the district and the owner of the property.

SEC. 124. Except for the repeal of Section 670 of the Insurance Code, as amended by Section 9 of Chapter 53 of the Statutes of 1982, by Section 75 of this act, and for the amendment of Section 1035 of the Probate Code, as amended by Chapter 41 of the Statutes of 1982, by Section 84 of this act, any section of any act enacted by the Legislature during the 1982 portion of the 1981-1982 Regular Session, which takes effect on or before January 1, 1983, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to this act.

CHAPTER 467

An act to amend, repeal, and add Section 43001 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 43001 of the Health and Safety Code is amended to read:

43001. The provisions of this part shall not apply to any of the following:

(a) Racing vehicles.

(b) Motorcycles, except as otherwise provided in Section 43107.

(c) Implements of husbandry, as defined in Chapter 1 (commencing with Section 36000) of Division 16 of the Vehicle Code.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends that date.

SEC. 2. Section 43001 is added to the Health and Safety Code, to read:

43001. The provisions of this part shall not apply to:

(a) Racing vehicles.

(b) Motorcycles, except as otherwise provided in Section 43107.

This section shall become operative on January 1, 1985.

CHAPTER 468

An act to amend Section 14683 of the Government Code, and to repeal Section 603 of the Revenue and Taxation Code, relating to governmental reporting.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 14683 of the Government Code is amended to read:

14683. Commencing in the year 1990 and every 10 years thereafter, consistent with the federal decennial census date, the State Lands Commission shall maintain a record and prepare a summary report on the ownership of public land in this state by the United States, the state, counties, cities and districts and any other public agency or body within the state.

The State Lands Commission may sell copies of the report required by this section at a reasonable charge that will provide for reimbursement of the cost of reproducing such report.

The commission shall request, and if possible obtain, such information from the United States as may be necessary to prepare its report.

Each county, city, district and other public agency or body of this state shall submit to the commission such information as the commission deems necessary to prepare the report, including an inventory and report of land ownership, and an inventory and report of all surplus land ownership.

SEC. 2. Section 603 of the Revenue and Taxation Code is repealed.

CHAPTER 469

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. The board of supervisors of Orange County may contract with any person, firm, or corporation for the repair or renovation of private property located in the community of Sunset Beach. The contract shall require that the property be made available to the public for cultural, social, and recreational uses in a manner which will insure that the county's funds shall be utilized for public purposes of benefit to the people of the county.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the authorization in this act may be implemented at the earliest time, thereby enabling the rehabilitation and restoration of the facilities before the winter of 1982, it is necessary that this act take effect immediately.

CHAPTER 470

An act to amend Section 12810 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 12810 of the Vehicle Code is amended to read:

12810. (a) In determining the violation point count, any conviction of failure to stop in the event of an accident resulting in damage to property or otherwise failing to comply with the requirements of Section 20002, of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or of reckless driving shall be given a value of two points and any other traffic conviction involving the safe operation of a motor vehicle upon the highway, except as provided in subdivision (e), shall be given a value of one point. However, conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(b) Any person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle.

(c) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(d) In applying the provisions of this section to a driver, the department shall give due consideration to the amount of use or mileage traveled in the operation of a motor vehicle.

(e) A violation of paragraphs (1), (2), (3), and (5) of subdivision (b) of Section 40001, wherein the driver is not the owner of the vehicle, shall not result in a violation point count being given to that driver.

CHAPTER 471

An act to amend Section 44332 of the Education Code, relating to schools.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 44332 of the Education Code is amended to read:

44332. Except where such service is provided by a school district authorized to register certification documents pursuant to Section 44332.5, each county or city and county board of education may issue temporary certificates for the purpose of authorizing salary

payments to certified employees whose credential applications are being processed or to personnel employed in children's centers or other preschool educational programs whose permit applications are being processed. However, the individual must have demonstrated proficiency in basic reading, writing, and mathematic skills pursuant to the requirements of Section 44252.5. The applicant for such a temporary certificate shall make a statement under oath that he or she has duly filed an application for a credential or permit together with the required fee and that to the best of his or her knowledge no reason exists why a certificate or permit should not be issued. Such certificate or permit shall be valid for not more than 120 schooldays.

The period of 120 schooldays may be extended once for a period of not more than 60 schooldays due to delays in processing a credential application, except when the commission certifies in writing to the county or city and county board of education before the end of the period of 120 schooldays that the applicant apparently does not possess adequate academic qualifications or apparently has a criminal record which would disqualify the application, in either of which cases no extension shall be granted. Failure of the commission to so certify before the end of the 120-schoolday extension period shall be construed to mean that the applicant possesses adequate academic qualifications and does not have a criminal record which would disqualify the application.

In no event shall a temporary certificate or permit be valid beyond the time that the commission either issues or denies the originally requested credential or permit.

CHAPTER 472

An act to amend Section 3381 of the Health and Safety Code, relating to child immunizations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 3381 of the Health and Safety Code is amended to read:

3381. As used in this chapter, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, or

development center, unless prior to his or her first admission to that institution he or she has been fully immunized against diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles, mumps, and rubella in the manner and with immunizing agents approved by the state department, except that all students who have reached the age of seven shall not be required to be immunized against pertussis or mumps.

Persons already enrolled in California public or private schools at the kindergarten level or above as of January 1, 1980, shall be exempt from the rubella immunization requirement for school attendance until they transfer to, enter, or attend a school at the seventh and ninth grade levels. Students entering the ninth grade on or after February 1, 1985, need not be screened for rubella. Students entering the seventh grade on or after February 1, 1987, need not be screened for rubella.

SEC. 2. The sum of six hundred ten thousand four hundred fifty-three dollars ($610,453) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in the 1982–83 fiscal year in accordance with Section 2231 of the Revenue and Taxation Code to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act. Reimbursement for the assessment of school records for rubella immunization for those students entering the 7th grade and 9th grade shall be limited to those students whose records show no evidence of previous rubella immunization.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section, therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to safeguard the health of children against the damaging effects of rubella and congenital rubella syndrome as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 473

An act relating to historical resources, and in this connection amending and supplementing the Budget Act of 1981 by amending Items 379-301-036 to 379-301-742, inclusive, and the provisions applicable thereto, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Items 379-301-036 to 379-301-742, inclusive, of the Budget Act of 1981 (Chapter 99, Statutes of 1981, as amended by Chapter 999, Statutes of 1981), and the provisions applicable thereto, are amended to read:

379-301-036—For capital outlay, Department of Parks and Recreation, payable from the Special Account for Capital Outlay		214,452
(a) Climate control study (Hearst Castle)	60,000	
(b) Artifact restoration (Hearst Castle)	83,000	
(c) Artifact appraisal (Hearst Castle)	10,000	
(d) Hearst Visitor Center—working drawings	61,452	
379-301-189—For capital outlay, Department of Parks and Recreation, payable from the Energy Account, Energy and Resources Fund		584,686
Schedule:		
(a) Project planning and design	160,044	
(b) Minor projects	424,642	
379-301-190—For capital outlay, Department of Parks and Recreation, payable from the Resources Account, Energy and Resources Fund		2,532,950
(a) Anderson Marsh—acquisition	2,000,000	
(b) Durham Ferry SRA—working drawings and construction	300,000	
(c) Seacliff SB—construction	232,950	
379-301-263—For capital outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund		9,426,650
Schedule:		
(a) Hollister Hills SVRA—working drawings for facilities improvements	308,350	
(d) Ocotillo Wells SVRA—acquisition	8,500,000	

(f) Minor projects	618,300	
379-301-392—For capital outlay, Department of Parks and Recreation, payable from the State Parks and Recreation Fund		14,226,900
Schedule:		
(a) Big Basin SP—working drawings and construction for sewer	713,400	
(b) Torrey Pines SR—construction for erosion control	301,450	
(c) Silverstrand SB—working drawings and construction for storm damage repair	1,122,150	
(g) Hearst San Simeon SHM—working drawings for water system	59,600	
(h) Hearst San Simeon SHM—rehabilitation and repair	572,550	
(i) Hearst San Simeon SHM—road repair	650,900	
(j) Columbia SHP—construction of theater and saloon	499,050	
(k) Old Town San Diego SHP—working drawings for reconstruction	99,000	
(*l*) Old Sacramento SHP—working drawings for '49er scene	80,000	
(m) Bale Grist Mill—construction of access road and parking lot	471,000	
(n) Minor project	2,300,000	
(o) Chino Hills—acquisition	500,000	
(p) Inholding purchases	500,000	
(q) Opportunity purchases	350,000	
(r) Acquisition costs	150,000	
(s) Prebudget appraisal costs	180,000	
(t) Angel Island SP—working drawings and partial construction of pier	685,700	
(u) Preliminary planning	150,000	
(v) Julia Pfeiffer Burns SP—acquisition	60,000	
(w) Wilder Ranch SP—acquisition	770,000	
(x) Millerton Lake SRA—working drawings and construction of water treatment plant	537,100	
(y) Candlestick SRA—construction	1,000,000	
(z) Railtown—acquisition, working drawings, and construction	1,500,000	
(aa) Relocation expenses	475,000	
(bb) Old Town San Diego—acquisition of Bazaar del Mundo concession contract	500,000	

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

379-301-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980			37,133,438
(a) Irvine Coast Project—acquisition		500,000	
(b) Humboldt Lagoons—acquisition		5,152,790	
(c) Sinkyone Wilderness SP—preliminary planning and construction		170,100	
(d) Project feasibility studies		90,000	
(e) Design and construction planning		749,949	
(f) Minor projects:		1,020,000	
(1) Environmental campsites	300,000		
(2) Handicapped retrofit	200,000		
(3) Volunteer projects	500,000		
(4) Point Arena hostel	20,000		
(g) Reimbursements		-2,576,395	
(h) Multi-Cultural Park-feasibility study and working drawings		400,000	
(i) Salt Point SP—construction		2,327,400	
(j) Chino Hills Project—acquisition		10,800,000	
(k) Wilder Ranch SP—acquisition		2,000,000	
(*l*) Mount Diablo—acquisition		2,000,000	
(m) Verdugo Hills—acquisition		1,285,000	
(n) Sinkyone Wilderness SP—acquisition		3,200,000	
(o) Crystal Cove SB—preliminary plans, working drawings, construction		2,000,000	
(p) Folsom Lake SRA—construction of day facilities at Beales Point		2,949,775	
(q) Malibu Creek SP—construction of day use facilities		1,850,830	
(r) Angel Island SP—construction of day use facilities		1,213,989	
(s) Seccombe Lake State Urban Recreation Area—working drawings and construction		2,000,000	

RECREATION AND FISH AND WILDLIFE ENHANCEMENT FUND

379-301-728—For capital outlay, Department of Parks and Recreation, payable from the Recreation and Fish and Wildlife Enhancement Fund	405,571

Schedule:
(a) Project planning and design 8,071
(b) Lake Perris SRA—working drawings for day use facility 397,500

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

379-301-732—For capital outlay, project planning and design, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 13,669

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

379-301-733—For capital outlay, project planning and design, Department of Parks and Recreation, payable from the State Beach, Park, Recreational and Historical Facilities Fund of 1974 1,096,392

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

379-301-742—For capital outlay, Department of Parks and Recreation, payable from the State Urban and Coastal Park Fund..... 11,007,586
Schedule:
(a) Project planning and design 541,686
(b) Pyramid Reservoir—construction of camping and day use facilities 4,465,900
(c) Santa Monica Mountains Backbone Trail, Saddle Creek Ranch and White Properties—acquisition 5,975,000
(d) Santa Monica Mountains Malibu Canyon and Creek—study the feasibility of acquiring a connecting trail link from Backbone Trail to Malibu Lagoon through Malibu Creek Canyon 25,000

Provisions applicable to Items 379-301-036 through 379-301-742—for capital outlay, Department of Parks and Recreation:
1. Provided the minor capital outlay projects funded by the Energy and Resources Fund Item 379-301-

188 are for solar retrofitting and energy conservation.

2. Provided further, that none of the funds appropriated for acquisition of parklands in Items 379-301-189 to 379-301-952, inclusive, shall be expended on the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

3. Provided, that no funds appropriated in Item 379-301-392 shall be encumbered for acquisition of land for Julia Pfeiffer Burns State Park, Wilder Ranch State Park, or the Humboldt Lagoons Project in Item 379-301-721 for acquisition of land unless and until the Save-the-Redwoods League has in each instance made a cash donation to the state equal to one-half the appraised value for such acquisition or otherwise enables the state to purchase such properties for an expenditure not to exceed one-half of the appraised value.

4. Provided, that funds appropriated for category (z) of Item 379-301-392 shall not be encumbered for the acquisition of "Railtown 1897" in Tuolumne County, which consists of 24 acres of land, several historic buildings and yard trackage, unless (1) the state has first received a donation of and title to all

railroad rolling stock, locomotives, and equipment, as identified in a report to the Legislature from the Sierra Railroad Company entitled "Inventory of Railroad Company", dated July 15, 1980, and the deed of gift expressly permits the transfer of the rolling stock, locomotives, and equipment between "Railtown 1897" and any other location for use for state park purposes; (2) the owner of the railroad property and right-of-way between Oakdale and Sonora grants the state the use of the entire right-of-way free of charge for scheduled excursion trains, charter trains, and special trains until abandonment and grants to the state, at no cost to the state, a minimum of six miles of railroad track and right-of-way, including track between milepost 35 and 41, to occur upon that abandonment, and grants to the state an option to purchase the remaining track and right-of-way at fair market value, to be exercised within six months of that abandonment; and (3) any instruments making or otherwise effecting the grants required under clause (2) provide that the grants are binding on any and all successors and assigns of the grantor and are recorded in the official records of the County of Tuolumne.

Provided further, that the department shall make every effort to contract with a concessionaire to operate excursion trains from "Railtown 1897" to Sonora and Oakdale in the event the excursion business is continued.

5. Provided, that no funds appropriated in Item 379-301-721 (h) may be expended for working drawings until a final study is complete and a lease agreement is executed

with the Sixth District Agricultural Association.

6. Provided, that no funds appropriated in Item 379-301-721 (*l*) may be expended until an appraisal has been completed.

   Provided further, that the funds appropriated in Item 379-301-721 (*l*) shall be expended for acquisition of parcels on the northeast perimeter of Mount Diablo as determined by the Department of Parks and Recreation, and that highest priority for acquisition shall be given to the Schwartz Holdings of approximately 337 acres.

7. Provided, that the funds available for expenditure pursuant to the appropriation in Item 379-301-721 (m) for Verdugo Hills acquisition shall not exceed the total amount of funds available for this project from nonstate sources in conformance with policy adopted by the State Parks and Recreation Commission.

8. Funds available to complete any land exchange relating to the Sinkyone Wilderness approved by the State Parks and Recreation Commission pursuant to subdivision (a) of Section 6 of Chapter 1234, Statutes of 1980, shall be used to acquire critical areas described in paragraph 2 of subdivision (c) of that section.

SEC. 2. In awarding the first concession contract to operate trains or facilities at Railtown 1897, the Department of Parks and Recreation shall give preference to nonprofit organizations that are responsible bidders and that offer increased historical interpretation for the maintenance, operation, and repair of the trains and facilities.

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

In order that the acquisition of "Railtown 1897" for the state park system may be accomplished at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 474

An act to amend Section 23790 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 23790 of the Business and Professions Code is amended to read:

23790. No retail license shall be issued for any premises which are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county or city. Premises which had been used in the exercise of such rights and privileges at a time prior to the effective date of the zoning ordinance may continue operation under the following conditions:

(a) The premises retain the same type of retail liquor license within a license classification.

(b) The licensed premises are operated continuously without substantial change in mode or character of operation.

CHAPTER 475

An act to amend Section 33328 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 33328 of the Health and Safety Code is amended to read:

33328. When it transmits the map of the project area to the county officials, taxing agencies, and the State Board of Equalization pursuant to Section 33327, the redevelopment agency shall also advise such officials and agencies of the last equalized assessment roll it proposes to use for the allocation of taxes that will comply with Sections 33670 and 33670.5. That roll shall be known and referred to as the base year assessment roll. The county officials charged with the responsibility of allocating taxes under Sections 33670 and 33670.5 shall prepare and deliver to the redevelopment agency and each of the taxing agencies, a report which shall include the following:

(a) The total assessed valuation of all taxable property within the project area as shown on the base year assessment roll.

(b) The identifications of each taxing agency levying taxes in the project area.

(c) The amount of tax revenue to be derived by each taxing agency from the base year assessment roll from the project area, including state subventions for homeowners, business inventory, and similar such subventions.

(d) For each taxing agency, its total ad valorem tax revenues from all property within its boundaries, whether inside or outside the project area.

(e) The estimated first year taxes available to the redevelopment agency, if any, based upon information submitted by the redevelopment agency, broken down by taxing agencies.

(f) The assessed valuation of the project area for the preceding year, or, if requested by the redevelopment agency, for the preceding five years, except for state assessed property on the board roll. However, in preparing this information, the requirements of Section 33670.5 shall be observed. The assessed value shall be reported by block if the property is divided by blocks, or by such other geographical area as may be agreed upon by the agency and county officials.

(g) If requested by the redevelopment agency, the total assessed valuation of all taxable property outside of the project area which is within 300 feet from the boundaries of the project area as shown on the base year assessment roll. For the purposes of this section "property within 300 feet" means and includes all of any parcel of property and any taxable property situated thereon, up to the boundaries of such parcel, when any part of the parcel is within 300 feet of the boundaries of the project area. The report, when received by the redevelopment agency, shall be included in the report required by Section 33352.

For public utilities, the reporting requirements of this section for the area that is within 300 feet of the boundaries of the project area may be met by providing the total assessed value of all land and improvements. The report, when received by the redevelopment agency, shall be included in the report required by Section 33352.

The report shall be prepared and delivered to the redevelopment agency and each of the taxing agencies within 90 days of the date of filing by the redevelopment agency with the State Board of Equalization or as otherwise agreed upon by the agency and the State Board of Equalization. If the proposed base year assessment roll has not yet been equalized at the time of the receipt of such advice, then the report shall be prepared and delivered within 90 days, or other period, otherwise agreed upon, by the agency and the State Board of Equalization, from the date set forth in Section 2050 of the Revenue and Taxation Code.

If the filing does not comply with the requirements of Section 33327, the State Board of Equalization or the official of the taxing agency entitled to receive such documents shall notify the filing agency within 10 days, stating the manner in which the filing of

documents does not comply with this section. If no such notice is given it shall be conclusively presumed that the agency has complied with the provisions of this section.

If such report is not received within the time prescribed by this section, the redevelopment agency may proceed with the adoption of the redevelopment plan. The county officials may transmit a partial report, and any final report or additional information, if received by the agency prior to the close of the public hearing on the redevelopment plan shall become part of the record of the public hearing.

The State Board of Equalization and officials of all taxing agencies shall provide the county officials preparing the report with all information necessary for its preparation. All data and information upon which said report is based shall be available to the agency to the extent permitted by law.

Prior to the publication of notice of the legislative body's public hearing on the plan, the agency shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to Section 33670.

CHAPTER 476

An act to amend Section 2 of Chapter 580 of the Statutes of 1978, relating to burglary prevention, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 2 of Chapter 580 of the Statutes of 1978 is amended to read:

Sec. 2. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to the Department of Justice without regard to fiscal years. The Department of Justice is hereby authorized to expend any of those funds to promote burglary prevention and education activities as a pilot project in a low income, high crime, urban residential community to reduce crime and its financial and psychological effects. These activities may include, but not be limited to, the following:

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

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

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

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

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

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Low income, high crime, urban residential communities have been experiencing a dramatic increase in crimes against property, particularly burglary, thereby jeopardizing public safety. Therefore, in order to continue programs to promote burglary prevention and education, it is necessary that this bill take effect immediately.

CHAPTER 477

An act to amend Sections 798.78 and 798.79 of the Civil Code, relating to mobilehomes.

[Approved by Governor July 9, 1982 Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 798.78 of the Civil Code is amended to read:

798.78. An heir or joint tenant who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who is a tenant shall have the right to sell the mobilehome to a third party in accordance with the provisions of this article, but only if all the tenant's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of the mobilehome and its premises which have arisen after the transfer of ownership to the heir or joint tenant have been satisfied up until the date the mobilehome is resold.

SEC. 2. Section 798.79 of the Civil Code is amended to read:

798.79. Any legal owner who has repossessed a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with the provisions of this article, but only if all the tenant's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of a mobilehome and its premises are satisfied by the legal owner until the date the mobilehome is resold.

SEC. 3. Section 798.79 of the Civil Code is amended to read:

798.79. Any legal owner who has repossessed a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with the

provisions of this article, but only if all the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of a mobilehome and its premises are satisfied by the legal owner until the date the mobilehome is resold.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 2429 are both chaptered and become effective January 1, 1983, both bills amend Section 798.79 of the Civil Code, and this bill is chaptered after Assembly Bill No. 2429, that the amendments to Section 798.79 proposed by both bills be given effect and incorporated in Section 798.79 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill No. 2429 are both chaptered and become effective January 1, 1983, both amend Section 798.79, and this bill is chaptered after Assembly Bill No. 2429, in which case Section 2 of this act shall not become operative.

CHAPTER 478

An act relating to adult day health care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the State Department of Health Services, without regard to fiscal years, for funding establishment of adult day health centers. These funds may be utilized for centers which will be or have recently become licensed pursuant to Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code, subject to the conditions specified in this act. The State Department of Health Services may utilize such funds to contract with any public agency, including, but not limited to, any city, county, or city and county, or private nonprofit agency to establish adult day health centers, as follows:

(a) The amount of any funds allocated pursuant to any contract respecting a single adult day health center shall not exceed fifty thousand dollars ($50,000). Contract moneys shall be limited to a one-time funding, not a yearly funding.

(b) Contract moneys shall be used solely for necessary costs of facility rental, remodeling, and minimum staffing which are incurred for operation of the adult day health center during the initial months of service. Such funds may be used to complete licensing requirements.

(c) Contract moneys shall not be disbursed until the proposal for establishing a center receives a favorable recommendation from the Adult Day Health Center Planning Council, as established pursuant to Section 1572.5 of the Health and Safety Code, and is approved by the State Department of Health Services.

(d) Each adult day health center assisted pursuant to a contract authorized by this act shall primarily serve the needs of eligible recipients of Medi-Cal benefits who are persons of low income or medically disadvantaged racial or ethnic minorities.

(e) Each contract shall be administered by the State Department of Health Services. The state shall provide 75 percent of the funds. The center shall provide 25 percent of the funds which may include in-kind contributions.

(f) Each adult day health center assisted pursuant to this act shall employ a full-time director responsible for the day-to-day operations of the center.

(g) The State Department of Health Services shall evaluate contract applications on the basis of potential effectiveness and impact of the proposal, financial need of the applicant, and demonstrated community support for the proposed adult day health center.

SEC. 2. Section 1 of this act shall become operative on July 1, 1982.

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

Funds are urgently needed for adult day health centers to serve the needs of eligible recipients of Medi-Cal benefits who are persons of low income or medically disadvantaged racial or ethnic minorities. It is, therefore, essential that this act go into immediate effect.

CHAPTER 479

An act to amend Section 66452.5 of the Government Code, relating to subdivision permits.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board

established by local ordinance or, if none, to the legislative body.

Any such appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken.

Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. Such hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. Any such appeal shall be filed in writing with the clerk of the legislative body within 10 days after the action of the appeal board from which the appeal is being taken.

After the filing of an appeal, the legislative body shall set the matter for hearing. Such hearing shall be held within 30 days after the date of a request therefor filed by the subdivider or the appellant. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal. The decision shall comply with the provisions of Sections 66473, 66473.5, and 66474, and shall include any findings required by such sections.

(c) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b) of this section. If no such further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and local ordinance, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify such approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify such approval.

(d) Where local ordinance so provides, any interested person adversely affected by a decision of the advisory agency or appeal board may file a complaint with the governing body concerning any decision of the advisory agency or appeal board. Any such complaint shall be filed with the clerk of the governing body within 10 days

after the action of the advisory agency or appeal board which is the subject of the complaint. Upon the filing of the complaint, the governing body may set the matter for hearing. Such hearing shall be held within 30 days after the filing of the complaint. Such hearing may be a public hearing for which notice shall be given in the time and manner provided.

Upon conclusion of the hearing the governing body shall, within seven days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. It may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make such findings as are not inconsistent with the provisions of this chapter or local ordinance adopted pursuant to this chapter.

(e) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to any such hearing. The notice requirement of this sudivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section.

CHAPTER 480

An act to amend Section 40158 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 40158 of the Health and Safety Code is amended to read:

40158. The board of supervisors of each county included, in whole or in part, within the unified district shall appropriate such funds as are necessary to carry out the purposes of the unified district, as determined by the unified district board, in accordance with the funding provisions specified in the agreement which created the unified district under Section 40151.

CHAPTER 481

An act to amend Sections 1, 14, and 135 of the Drainage District Act of 1903 (Chapter 238 of the Statutes of 1903), relating to flood control, and making an appropriation therefor.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 1 of the Drainage District Act of 1903 (Chapter 238 of the Statutes of 1903) is amended to read:

Section 1. Whenever 50 or a majority of the holders of title, or evidence of title as herein provided, to agricultural lands other than swamp and overflowed lands, which are susceptible to construction of works for the control of waters to protect, maintain, and enhance the quality of such lands, including drainage, disposal of drainage water and waters of deleterious quality, conservation and beneficial use of flood, storm, and other waste waters occurring on such lands, or control of flood, storm, and other waste waters occurring on district lands, or waters from local creeks, desire to provide for the protection of such lands, they may propose the organization of a drainage district under the provisions of this act, and when so organized, such district shall have the powers, rights, and duties conferred or which may be conferred by law, upon such drainage districts. The equalized county assessment roll next preceding the presentation of a petition for the organization of a drainage district under the provisions of this act, shall be sufficient evidence of title for the purposes of this act; provided, that no person who has received or acquired title to land within such proposed district for the purpose of enabling him or her to join in such petition or to become an elector of said district, shall be allowed to sign such petition or to vote at any election to be held in such district under the provisions of this act. Such illegal signing, however, shall not invalidate such petition when there shall be found a sufficient number of other legal petitioners.

SEC. 2. Section 14 of the Drainage District Act of 1903 (Chapter 238 of the Statutes of 1903) is amended to read:

Sec. 14. The board shall have the power and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts for services or the performance of services; to adopt a seal of the district to be used in the attestation of proper documents; provide for the payment, from the proper fund, of all the debts and just claims against the district; employ and appoint when necessary, engineers to survey, plan, locate, and estimate the cost of the works necessary to carry out the functions of the district and the land needed for right-of-way, including drains, canals, sluices, watergates, embankments, evaporation ponds,

facilities for the disposal of accumulated salts, facilities for the control of storm and other waste waters occurring on lands owned by the district, including waters arising outside the district which flow through it, for the protection of lands of the district from storm and waste waters, or water from local creeks, and facilities for the conservation of storm and waste waters occurring within the district for beneficial use, including spreading, storing, percolation, and sale of such conserved waters, and to construct, maintain, and keep in repair all works necessary for the purpose of maintaining and enhancing the quality and use of the lands within the district through drainage, flood and waste water control on district-owned lands, and conservation, storage, and beneficial use of flood and other waste waters from any lands within the district. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary works and the line for any canals, sluices, watergates and embankments, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, hold and possess either by donation, purchase or condemnation, any land or other property, necessary for the construction, use, maintenance, repair, and improvement of any works required for purposes of the district as provided herein. The board may establish equitable bylaws, rules and regulations necessary or proper for carrying on the business herein contemplated, and generally may perform all such acts as shall be necessary to fully carry out the purposes of this act.

SEC. 3. Section 135 of the Drainage District Act of 1903 (Chapter 238 of the Statutes of 1903) is amended to read:

Sec. 135. In addition to, and as an alternative to, the matters contained in this act regarding assessments of district lands, the district may by resolution adopt separate plans for drainage, for disposal of drainage and other waste waters, for control of storm and waste waters, or waters from local creeks, occurring on lands of the district, and for the storage, conservation, and beneficial use of storm and flood waters within the district, and may establish limited areas within the district to which each of these plans shall apply. The district may enter into long-term contracts with holders of title to land in each such area to provide one or more of such services. Upon recordation of the long-term contract with the county recorder of the county in which the real property is situated, the contract shall run with the land and be binding upon successors in interest of the contracting landowners for the duration of the contract. Such recorded long-term contract may provide that the failure of the contracting landowner to pay for district service or services as required by contract, shall, upon recordation of a certificate in the office of the county recorder in the county in which the land is situated, constitute a lien with the priority of a judgment lien which delinquency may be collected and enforced in the manner provided in this act for the collection and enforcement of district assessments. Such contracts may be acknowledged or proved, certified, and

recorded in like manner and with like effect as grants of real property, and all statutory provisions relating to the recording or nonrecordation of conveyances of real property, and to the effect thereof, shall apply to such contracts with like effect.

SEC. 4. The Department of Water Resources may, pursuant to a written agreement between the department and the Lower San Joaquin Levee District, transfer to the Lower San Joaquin Levee District, from funds appropriated to the department during the 1981–82 and 1982–83 fiscal years for capital outlay for the Sacramento River bank protection project, an amount not to exceed a total sum of fifty thousand dollars ($50,000) for expenditure by the district for levee work along Bear Creek, a tributary of the Chowchilla Bypass, and for modifications to the weir and low flow for the bypass channel on Bear Creek. Neither the state nor the Lower San Joaquin Levee District shall be liable for any flooding caused by actions of property owners to alleviate flood hazards or construction of flood control works to protect their lands. It is recognized that the state has an interest in providing for the repair of these flood control works which were constructed by the state initially and which are inadequate to meet present flood control needs.

SEC. 5. The Reclamation Board may enter into a cooperative agreement with the Department of Transportation to reimburse the department for the additional cost of constructing the Highway 59 bridge where it crosses Fahren's Creek, caused by the increased channel width and the elevated approaches which are necessary to meet flood control project requirements. The reimbursement to the Department of Transportation shall be funded during the 1982–83 fiscal year.

CHAPTER 482

An act to amend Section 5 of, and to add Section 6 to, Chapter 778 of the Statutes of 1929, relating to lands conveyed to the City of San Diego and the County of San Diego, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. The purpose of this act is to clarify the present status of title to the land granted to the City of San Diego and the County of San Diego by Chapter 778 of the Statutes of 1929. That act was intended to terminate the previous conveyance in trust of the lands to the City of San Diego; to free the lands from the public use for navigation, commerce, and fisheries; to revert title to the state; and to reconvey title from the state to the city and county to be used for

county and municipal purposes.

The Legislature hereby finds and declares as follows:

(a) After the enactment of Chapter 778 of the Statutes of 1929, a public administration building was constructed on those lands and occupied by both the City of San Diego and the County of San Diego.

(b) After construction of the public administration building, the Legislature amended Chapter 778 of the Statutes of 1929, by Chapter 693 of the Statutes of 1945, and by Chapter 479 of the Statutes of 1961.

(c) Thereafter, the county purchased all right, title, and interest in and to those lands then held by the city, rendering the county the sole owner and occupant of the lands and the public administration building.

(d) The county now contemplates increased utilization of the lands so as to maximize its benefit to the general public.

(e) Any nontax revenues generated from the development of the lands pursuant to this act should be segregated and deposited into a separate account to be managed by the county as trustee for public trust purposes, providing a benefit to the general public as hereafter set forth.

(f) The purpose of this act is to resolve any uncertainty which may exist with respect to title to those lands, to allow the County of San Diego to make various additional uses of those lands in recognition of the public's changing needs in those lands and the trust revenues which may be produced thereby, and to provide for proper control, management, and administration of those lands and any revenues so that they will be used in the best interests of the general public.

SEC. 2. Section 5 of Chapter 778 of the Statutes of 1929 is amended to read:

Sec. 5. There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in the lands described in Section 1 of this act, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove those deposits from those lands. However, the right to enter to a depth of 500 feet below the present surface is hereby waived by the state to allow development of the lands.

SEC. 3. Section 6 is added to Chapter 778 of the Statutes of 1929, to read:

Sec. 6. (a) Notwithstanding any of the foregoing, the lands described in Section 1 of this act may be used for any nonresidential purpose, including, but not limited to, the right to lease, for a term not to exceed 66 years, portions thereof to private interests for commercial and recreational uses and to permit construction, reconstruction, repair, maintenance, and operation thereon of such buildings, facilities, utilities, structures, and appliances as may be incidental, necessary, or convenient for the promotion and accommodation of any such uses, including, but not limited to, snack bars, cafes, restaurants, hotels, motels, public assembly and meeting places, convention centers, museums, theaters, parks, playgrounds, public restrooms, bathhouses, public recreation facilities, tackle

shops, souvenir shops, clothings and other specialty shops, service stations, parking areas and structures, roadways and other transportation facilities, pedestrian ways, landscaped areas, public or private office or administration buildings, and all other uses compatible with surrounding land uses; provided, however, that at least 30 percent of the lands shall be used for open space, parks, terraces, or other landscaped areas beneath which may be located subterranean facilities for public or private uses.

Any use made by a private person, firm, or corporation of any portion or portions of the lands granted and conveyed hereby shall conform and be subject to the Local Coastal Program, the General Plan, and the zoning and building code requirements of the City of San Diego; provided, however, that this limitation shall not apply to private uses incidental to the use of public buildings.

If any use results in the creation of an interest subject to ad valorem property taxation, the taxes on that interest shall be allocated to the respective taxing agencies without regard to any applicable redevelopment plan providing for allocation of taxes pursuant to Section 33670 of the Health and Safety Code or any other provision of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code) enacted pursuant to Section 16 of Article XVI of the California Constitution, unless the County of San Diego, by resolution, approves the allocation of taxes pursuant to the redevelopment plan.

(b) The county shall establish a separate fund and shall deposit therein all nontax revenues received directly from, or indirectly attributable to, those lands. The purpose of this requirement is to provide for the segregation of funds derived from the use of granted lands in order to ensure that they shall be expended by the county to enhance public trust purposes, including, but not limited to, the improvement, maintenance, or operation of those lands and the reimbursement for all costs incurred by the county in acquiring sole ownership of those lands, the acquisition or reimbursement for previous acquisitions of lands or interests in lands situated in the coastal zone as defined by the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) within the County of San Diego which are adjacent to, or involve interests in, tide and submerged lands, rivers, lagoons, estuaries, wetlands, or marshlands, and for the improvement, maintenance, or operation of those lands, or the improvement, maintenance, or operation of any tide or submerged lands, filled or unfilled, within the County of San Diego for public trust purposes of a statewide general benefit as designated in this act, including the right to provide public light-rail and other transportation services and facilities for the portions on, or contiguous to, filled tide or submerged lands in order to enhance public access to the water. Lands acquired with, or for which full reimbursement is made from, those revenues shall be held for public trust purposes, including, but

not limited to, public parks, public harbors or marinas, or other water-oriented recreational facilities, public access, public light-rail and other transportation services and facilities, beach rehabilitation and maintenance, lifeguard services, open space, and wildlife and ecological preserves. The lands may be leased for limited periods not exceeding 66 years for uses consistent with public trust purposes. All nontax revenues derived from lands acquired under the terms and conditions of this act shall be deposited in the separate account established by the county pursuant to subdivision (c) and shall be expended by the county in accordance with the terms of this act. However, prior to the acquisition or reimbursement for any previous acquisition of any lands or interests in lands pursuant to this section, the county shall obtain approval of the State Lands Commission. The State Lands Commission may only approve proposed acquisitions which are consistent with the provisions of this act. Upon any acquistion or full reimbursement for any previous acquisition pursuant to the provisions of this act, the county shall immediately record in the office of the County Recorder of San Diego County an appropriate instrument setting forth a legal description of the property and reflecting the county's ownership in trust thereof, subject to the provisions of this act.

(c) An annual statement of financial condition and operations, to conform with such requirements as the State Lands Commission may prescribe, shall be submitted to the State Lands Commission by the county on or before November 30th of each year for the preceding fiscal year.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The lands granted and conveyed by the State of California by Chapter 778 of the Statutes of 1929 are proposed to be more fully utilized by the County of San Diego in order to maximize benefit to the public. The increased utilization contemplates leasing portions of the lands to private interests. Procedures leading up to the execution of the leases are rapidly approaching completion, thus necessitating an immediate clarification of uses to be made of the land under Chapter 778 of the Statutes of 1929 in order to avoid prolonged delays in realizing full utilization of those lands for maximum public benefit. It is necessary, therefore, that this act take effect immediately.

CHAPTER 483

An act to amend Sections 69582 and 69604 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 69582 of the Government Code is amended to read:

69582. In the County of Contra Costa there shall be 15 judges of the Superior Court.

SEC. 2. Section 69604 of the Government Code is amended to read:

69604. In the County of Stanislaus there shall be eight judges of the superior court.

SEC. 3. The sum of two hundred sixty-two thousand six hundred fifty-one dollars ($262,651) is hereby appropriated from the General Fund to the Controller for allocation and disbursement, as follows:

(a) To Contra Costa County, in augmentation of Item 0420-101-001 of the Budget Act of 1982 for the state share of salaries of judges of the superior court as provided by Section 68206 of the Government Code	$26,884
(b) To Contra Costa County, in augmentation of Item 0440-101-001 of the Budget Act of 1982, for disbursement as a block grant by the Controller	$60,000
(c) To Stanislaus County, in augmentation of Item 0420-101-001 of the Budget Act of 1982 for the state share of salaries of judges of the superior court as provided by Section 68206 of the Government Code	$55,767
(d) To Stanislaus County, in augmentation of Item 0440-101-001 of the Budget Act of 1982, for disbursement as a block grant by the Controller	$120,000
	$262,651

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 484

An act to amend Section 12640.04 of, and to repeal and add Section 12640.05 to, the Insurance Code, relating to mortgage guaranty insurance.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 12640.04 of the Insurance Code is amended to read:

12640.04. In addition to the paid-in capital and surplus provided in Section 12640.03, each mortgage guaranty insurer shall establish a contingency reserve after establishment of the unearned premium reserve. There shall be an annual contribution to the contingency reserve which in the aggregate shall be the greater of either 50 percent of the earned premium or the policyholders surplus required to be established under Section 12640.05 divided by 10. The annual contributions to the contingency reserve made during each calendar year shall be maintained for a period of 120 months, except that withdrawals may be made by the insurer in any given year to the extent by which incurred losses exceed 20 percent of earned premium or as otherwise permitted by the commissioner.

SEC. 2. Section 12640.05 of the Insurance Code is repealed.

SEC. 3. Section 12640.05 is added to the Insurance Code, to read:

12640.05. (a) A mortgage guaranty insurer shall maintain at all times a policyholders surplus in an amount not less than the amount required by this section. The required policyholders surplus shall be the calculated net of reinsurance ceded, but shall include reinsurance assumed. "Face amount of an insured mortgage" means the outstanding principal balance computed without any reduction because of an insurer's option limiting its coverage.

(b) If a policy of mortgage guaranty insurance insures individual loans with a percentage claim settlement option on such loans, the insurer shall maintain a policyholders surplus based on each one hundred dollars ($100) of the face amount of the mortgage, the percentage coverage or claim settlement option, and the loan-to-value category.

The required amount of policyholders surplus shall be calculated in the following manner:

(1) If the total indebtedness is greater than 75 percent of the value of the collateral property at the date of the insurance:

Percent Coverage	Policyholders Surplus per $100 of the Face Amount of the Mortgage	Percent Coverage	Policyholders Surplus per $100 of the Face Amount of the Mortgage
5%	$ .20	55%	$1.50
10	.40	60	1.55
15	.60	65	1.60
20	.80	70	1.65
25	1.00	75	1.75
30	1.10	80	1.80
35	1.20	85	1.85
40	1.30	90	1.90
45	1.35	95	1.95
50	1.40	100	2.00

If the percent coverage is between any five-point increment, then the factor for policyholders surplus per one hundred dollars ($100) of the face amount of the mortgage shall be prorated.

(2) If the total indebtedness is at least 50 percent and not more than 75 percent of the value of the collateral property at the date of insurance, the required amount of policyholders surplus shall be 50 percent of the amount required by paragraph (1) of subdivision (b).

(3) If the total indebtedness is less than 50 percent of the value of the collateral property at the date of insurance, the required amount of policyholders surplus shall be 25 percent of the amount required by paragraph (1) of subdivision (b).

(c) If a policy of mortgage guaranty insurance provides coverage on a group of loans subject to an aggregate loss limit, the policyholders surplus shall be:

(1) If the equity is not more than 50 percent and is at least 20 percent, or equity plus prior insurance or a deductible equals 25 percent of the value of the collateral property at the date of insurance, the required amount of policyholders surplus shall be calculated as follows:

Percent Coverage	Policyholders Surplus per $100 of the Face Amount of the Mortgage	Percent Coverage	Policyholders Surplus per $100 of the Face Amount of the Mortgage
1%	$ .30	50%	$ .825
5	.50	60	.85
10	.60	70	.875
15	.65	75	.90
20	.70	80	.925
25	.75	90	.95
30	.775	100	1.00
40	.80		

If the percent coverage is between any specified increment, then the factor for policyholders surplus per one hundred dollars ($100) of the face amount of the mortgage shall be prorated.

(2) If the equity is less than 20 percent or the equity plus prior insurance or a deductible is less than 25 percent of the value of the collateral property at the date of insurance, the required amount of policyholders surplus shall be 200 percent of the amount required by paragraph (1) of subdivision (c).

(3) If the equity is more than 50 percent or the equity plus prior insurance or a deductible is more than 55 percent of the value of the collateral property at the date of insurance, the required amount of policyholders surplus shall be 50 percent of the amount of policyholders surplus required by paragraph (1) of subdivision (c).

(d) If a policy of mortgage guaranty insurance provides for layers of coverage, deductibles or excess reinsurance, the required amount of policyholders surplus may be computed by subtraction of the required policyholders surplus for the lower percentage coverage limits from the required policyholders surplus for the upper or greater coverage limit.

(e) If a policy of mortgage guaranty insurance provides for coverage on loans secured by second liens, the policyholders surplus shall be:

(1) If the policy provides coverage on individual loans, the required amount of policyholders surplus shall be calculated according to subdivision (b) after the percent of coverage and the loan-to-value ratios have been determined as follows:

(a) Divide the insured portion of the second loan by the entire loan indebtedness on the collateral property to determine the percent coverage.

(b) Divide the entire loan indebtedness on the property by the value of the collateral property at the date of insurance to determine loan-to-value percent.

(c) The face amount of insured mortgage shall mean the entire loan indebtedness on the property.

(d) Equity shall mean the complement of the loan-to-value percent.

(2) If the policy provides coverage on a group of loans subject to an aggregate loss limit, the policyholders surplus shall be calculated according to subdivision (c) after the percent of coverage and the loan-to-value ratios have been determined in accordance with paragraph (1).

(e) If a policy of mortgage guaranty insurance provides for coverage on leases, the policyholders surplus shall be four dollars ($4) for each one hundred dollars ($100) of the insured amount of the lease.

(f) If a mortgage guaranty insurer does not have the amount of policyholders surplus required by this section, it shall cease transacting new business until such time that its policyholders surplus is in compliance with this section.

CHAPTER 485

An act to amend Section 13140.5 of the Health and Safety Code, relating to fire services.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 13140.5 of the Health and Safety Code is amended to read:

13140.5. The board shall be composed of the following voting members: the State Fire Marshal, the Director of Forestry, the Chief of the Fire and Rescue Division, Office of Emergency Services, a representative of the insurance industry, four fire chiefs, four fire service labor representatives, one representative from city government, and one representative from county government.

The following members shall be appointed by the Governor: a representative of the insurance industry, four fire chiefs, five fire service labor representatives, one representative from city government, and one representative from county government. Each member appointed shall be a resident of this state. Three of the fire chiefs appointed to the board shall be selected from a list of names recommended by the Board of Directors of the California Fire Chiefs' Association, Inc. and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. The five fire service labor representatives shall be selected from a list of names recommended by statewide employee organizations representing rank and file firefighters with organization memberships exceeding 2,000 firefighters, but not more than one fire service labor representative shall be selected from among persons recommended by any one of the employee organizations, unless each organization is represented on the membership of the board. The city government representative shall be selected from elected or appointed city chief administrative officers. The county government representative shall be selected from elected or appointed county chief administrative officers. The appointed members, except those first appointed, shall be appointed for a term of four years. Of the members first appointed seven shall be appointed for a term of two years and four shall be appointed for a term of four years. Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.

CHAPTER 486

An act to amend Section 1917.063 of the Civil Code, relating to shared appreciation loans.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 1917.063 of the Civil Code is amended to read:

1917.063. This chapter facilitates the making of shared appreciation financing in this state which conforms to the provisions of this chapter. The terms and conditions of any shared appreciation loan made pursuant to this chapter shall be consistent with this chapter. This chapter does not, however, apply to or limit shared appreciation financing of real property of a type specified in Section 1917.030 that is made pursuant to other provisions of law, or which is not otherwise unlawful. Nothing in this chapter shall be construed to in any way affect shared appreciation financing of commercial property or residential property not meeting the criteria specified in Section 1917.030.

Nothing in this chapter precludes a pension fund specified in 1917.030 from providing shared appreciation financing pursuant to Chapter 5 (commencing with Section 1917.110) or any other provision of law, or which is not otherwise unlawful.

SEC. 2. The amendments to Section 1917.063 made by this act do not constitute a change in, but are declaratory of existing law.

CHAPTER 487

An act to amend Section 53978 of, to add Chapter 6.1 (commencing with Section 54701) to Part 1 of Division 2 of Title 5 of, and to repeal Section 53980 and Chapter 10 (commencing with Section 60400) of Division 2 of Title 6 of, the Government Code, to amend, repeal, and add Section 13917.5 of the Health and Safety Code, to amend Sections 5831, 19181, and 19184 of, to repeal and add Sections 5830.1, 19161.1, 19176.1, and 19180.1 to, and to repeal Sections 1550.4, 1550.5, 1550.6, 1550.7, 1550.8, 5830.2, and 19180.2 of, the Streets and Highways Code, and to repeal Sections 22 and 23 of the Drainage District Act of 1885 (Chapter 158 of the Statutes of 1885) as added by Chapter 1053 of the Statutes of 1980, relating to public entities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 53978 of the Government Code is amended to read:

53978. (a) Any local agency which provides fire protection or prevention services directly, by contract with another local agency, or which provides such services pursuant to Section 25643 of this code or the Fire Protection District Law of 1961, Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code, or which provides police protection services, may, by ordinance, determine and propose for adoption a special tax for fire protection and prevention provided by the local agency, or a special tax for police protection services provided by the local agency, or both of such special taxes if both such services are provided by the local agency, other than ad valorem property taxes, pursuant to this section. The legislative body may establish zones or areas within the local agency and may restrict the levy of the special tax to those zones or areas. Such proposition shall be submitted to the voters of the affected area or zone, or of the district, and shall take effect upon approval of two-thirds of the voters voting upon such proposition. The local agency which fixes such a special tax shall not, however, impose such tax upon a federal or state governmental agency or another local agency.

(b) The ordinance submitted to voter approval pursuant to the provisions of subdivision (a), shall specify the amount of each of such special taxes. Each of such special taxes shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the local agency to which fire protection services or police protection services are made available, for the purpose of obtaining, furnishing, operating, and maintaining fire suppression and police protection equipment or apparatus or either such service, respectively, for paying the salaries and benefits to firefighting and police protection personnel or either such personnel, respectively, and for such other necessary fire protection and prevention expenses and police protection expenses, respectively, or either such expenses of the local agency in such area, zone, or local agency to which fire protection and prevention services or police protection services, or both, are made available.

An ordinance which sets a maximum amount of the tax to be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, and which permits the local agency proposing the tax to determine the amount to be levied, annually, within the maximum amount, shall satisfy the requirements of this section. However, in no case shall the amount of the tax to be levied exceed the maximum amount established by the ordinance without the approval of the voters as prescribed in subdivision (a).

(c) The amount of each such special tax established by the legislative body, and approved by the voters of the local agency, may be varied to each parcel, improvement, or use of property based on

the degree of availability of fire protection and prevention services or police protection services, respectively, in the affected area, and may restrict such charges to areas lying within one or more zones or areas established in such local agency.

(d) The legislative body may provide for the collection of the special taxes in the same manner and subject to the same penalty as, or with, other charges and taxes fixed and collected by the local agency, or by the county on behalf of the local agency. If such special taxes are collected by the county on behalf of the local agency, the county may deduct its reasonable costs incurred for such service before remittal of the balance to the local agency.

(e) The revenues from each of such special taxes shall be used for the service for which it was imposed, and for no other purpose.

(f) This section does not limit or prohibit the levy or collection or any other fee, charge, or tax, or any license or service fee or charge for fire prevention or protection services or police protection services as provided by other provisions of law.

SEC. 2. Section 53980 of the Government Code is repealed.

SEC. 3. Chapter 6.1 (commencing with Section 54701) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 6.1. BENEFIT ASSESSMENT ACT OF 1982

Article 1. General Provisions

54701. This chapter shall be known and may be cited as the Benefit Assessment Act of 1982.

54702. The Legislature finds and declares that it is in the public interest to allow local agencies to finance property related services through the imposition of an assessment upon the property which benefits from those services.

The Legislature also finds and declares that assessments imposed for the purpose of providing services which benefit individual properties are not taxes for the general benefit of the governmental entity, but are assessments for services which confer special benefits upon the properties to which the services are provided.

54703. The purpose of this chapter is to recodify and supplant previously enacted provisions of law which authorize the imposition of benefit assessments and to provide a uniform procedure for the enactment of benefit assessments for services by local jurisdictions.

Article 2. Definitions

54705. As used in this chapter, "local agency" means any city, county, city and county, special district, or any other municipal corporation or district.

54706. As used in this chapter, "legislative body" means the city council or board of trustees in the case of a city, the board of supervisors in the case of a county or a city and county, or the board

of directors, trustees, or governors or other governing body in the case of a special district or any other municipal or public corporation or district.

Article 3. Authorization: Requisites for Assessment

54710. Any local agency which is authorized by law to provide one or more of the following services may impose a benefit assessment pursuant to this chapter to finance the maintenance and operation costs of these services:

(a) Drainage.

(b) Flood control.

(c) Street lighting.

54710.5. Any local agency which is authorized by law to provide drainage services or flood control services may, in addition to imposing a benefit assessment for the purposes authorized pursuant to Section 54710, impose such an assessment to finance the cost of installation and improvement of facilities.

54711. (a) No benefit assessment shall be levied pursuant to this chapter unless it meets all of the following requirements:

(1) The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of the service. In the case of a benefit assessment for flood control services, the benefit may be determined on the basis of the proportionate storm water runoff from each parcel.

(2) The annual aggregate amount of the assessment shall not exceed the estimated annual cost of providing the service.

(3) The revenue derived from the assessment shall not be used to pay the cost of any service other than the service for which the assessment was levied.

(b) This section does not limit or prohibit the levy or collection of any other fee, charge, or tax for the provision of services, except that a maintenance district formed pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code may impose an assessment pursuant to this chapter only as an alternative to imposing a property tax for the provision of street lighting services.

Article 4. Procedure for Imposition of Benefit Assessment

54715. (a) The legislative body of a local agency may by ordinance or resolution, adopted after notice and public hearing, determine and propose for adoption an annual assessment on each parcel of real property within the jurisdiction of the local agency, except that the governing body shall not impose an assessment upon a federal or state governmental agency or another local agency.

(b) The legislative body may establish zones or areas of benefit within the local agency and may restrict the imposition of the

assessment to areas lying within one or more of the zones or areas of benefit established within the local agency.

(c) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit. In the case of a benefit assessment for flood control services, the benefit assessment may be levied on the basis of proportionate storm water runoff from each parcel.

The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available, whether or not such service is actually used.

(d) Whenever a railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way is included within an area proposed to be assessed, the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the assessment only if, and to the extent that, it is found that it will benefit from the service, and the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the same penalties, and the same procedure and sale, in the event of delinquencies, as other parcels in the assessment area. In determining whether or not the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way benefits from the services provided, its use as a right-of-way for a railroad, gas, water, telephone, cable television, electric, or other utility shall be presumed to be permanent.

54716. (a) For the first fiscal year in which a benefit assessment is proposed to be imposed pursuant to this chapter, the legislative body shall cause a written report to be prepared and filed with the clerk of the local agency which shall contain all of the following information:

(1) A description of the service proposed to be financed through the revenue derived from the assessment.

(2) A description of each lot or parcel of property proposed to be subject to the benefit assessment. The assessor's parcel number shall be a sufficient description of the parcel.

(3) The amount of the proposed assessment for each parcel.

(4) The basis and schedule of the assessment.

(b) The clerk shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 and posted in at least three public places within the jurisdiction of the local agency.

(c) At the hearing, the legislative body shall hear and consider all protests. At the conclusion of the hearing, the legislative body may adopt, revise, change, reduce, or modify the proposed assessment. The legislative body shall make a determination upon the assessment as described in the report or as determined at the hearing, and shall, by ordinance or resolution, determine the proposed assessment.

54717. (a) The proposition shall be submitted to the eligible voters within the jurisdiction of the affected local agency, zone, or area of benefit established by the local agency, and shall take effect upon approval by a majority vote of the voters voting on the proposition.

(b) The legislative body may annually thereafter determine the cost of the service which is financed by the assessment and, by ordinance or resolution, determine and impose the assessment.

54718. (a) The legislative body may provide for the collection of the assessment in the same manner, and subject to the same penalties and priority of lien as, other charges and taxes fixed and collected by, or on behalf of the local agency, except that if, for the first year the assessment is levied the real property on which the assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent, the confirmed assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

(b) If the assessments are collected by the county, the county may deduct its reasonable costs incurred for the service before remittal of the balance to the local agency's treasury.

SEC. 4. Chapter 10 (commencing with Section 60400) of Division 2 of Title 6 of the Government Code is repealed.

SEC. 5. Section 13917.5 of the Health and Safety Code is amended to read:

13917.5. The district may acquire all necessary and proper lands and facilities, or any portion thereof, or equipment, by means of a plan to borrow money or by purchase on contract. The amount of indebtedness to be incurred shall not exceed an amount equal to three times the actual tax income for the fiscal year preceding the year in which the indebtedness is incurred, and all such indebtedness which is incurred on or after November 13, 1968, shall be repaid in approximately equal annual installments during a period not to exceed 10 years from the date on which it is incurred and shall bear interest at a rate not exceeding 12 percent per annum payable annually or semiannually or in part annually and in part semiannually. Each such indebtedness shall be authorized by a resolution adopted by the affirmative votes of at least four-fifths of the members of the district board if the board has five members or more, and by the affirmative votes of at least two-thirds of the members if the board has less than five members, and shall be evidenced by a promissory note or contract signed by at least four-fifths of the members of the district board, if the board has five members or more, or signed by at least two-thirds of the members if the board has less than five members. At the time of making the general tax levy after incurring each such indebtedness and annually thereafter until such indebtedness is paid or until there is a sum in the treasury set apart for that purpose sufficient to meet all payments

of principal and interest on such indebtedness as they become due, a portion of the property tax allocated to the district under the provisions of Section 96, 97, or 98 of the Revenue and Taxation Code shall be specifically allocated to pay the interest on such indebtedness and such part of the principal as will become due on an annual basis. The indebtedness authorized to be incurred by this section shall be in addition to, and the provisions of this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 6. Section 13917.5 is added to the Health and Safety Code, to read:

13917.5. The district may acquire all necessary and proper lands and facilities, or any portion thereof, or equipment, by means of a plan to borrow money or by purchase on contract. The amount of indebtedness to be incurred shall not exceed an amount equal to three times the actual tax income for the fiscal year preceding the year in which the indebtedness is incurred, and all such indebtedness which is incurred on or after November 13, 1968, shall be repaid in approximately equal annual installments during a period not to exceed 10 years from the date on which it is incurred and shall bear interest at a rate not exceeding 10 percent per annum payable annually or semiannually or in part annually and in part semiannually. Each such indebtedness shall be authorized by a resolution adopted by the affirmative votes of at least four-fifths of the members of the district board if the board has five members or more, and by the affirmative votes of at least two-thirds of the members if the board has less than five members, and shall be evidenced by a promissory note or contract signed by at least four-fifths of the members of the district board, if the board has five members or more, or signed by at least two-thirds of the members if the board has less than five members. At the time of making the general tax levy after incurring each such indebtedness and annually thereafter until such indebtedness is paid or until there is a sum in the treasury set apart for that purpose sufficient to meet all payments of principal and interest on such indebtedness as they become due, a portion of the property tax allocated to the district under the provisions of Section 96, 97, or 98 of the Revenue and Taxation Code shall be specifically allocated to pay the interest on such indebtedness and such part of the principal as will become due on an annual basis. The indebtedness authorized to be incurred by this section shall be in addition to, and the provisions of this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

This section shall become operative January 1, 1984.

SEC. 7. Section 1550.4 of the Streets and Highways Code is repealed.

SEC. 8. Section 1550.5 of the Streets and Highways Code is repealed.

SEC. 9. Section 1550.6 of the Streets and Highways Code is repealed.

SEC. 10. Section 1550.7 of the Streets and Highways Code is repealed.

SEC. 11. Section 1550.8 of the Streets and Highways Code is repealed.

SEC. 12. Section 5830.1 of the Streets and Highways Code is repealed.

SEC. 13. Section 5830.1 is added to the Streets and Highways Code, to read:

5830.1. Whenever the board of supervisors levies an assessment authorized by Section 5830 for purposes of lighting maintenance, the assessment shall be levied pursuant to Chapter 6.1 (commencing with Section 54701) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 14. Section 5830.2 of the Streets and Highways Code is repealed.

SEC. 15. Section 5831 of the Streets and Highways Code is amended to read:

5831. The special assessment tax shall be levied and collected at the same time and in the same manner as the general tax levy for county purposes and when collected shall be paid into the county treasury to the credit of the fund of the maintenance district and be used for the payment of the expenses of the district. The board of supervisors may control and order the expenditure thereof for such purposes.

SEC. 16. Section 19161.1 of the Streets and Highways Code is repealed.

SEC. 17. Section 19161.1 is added to the Streets and Highways Code, to read:

19161.1. Whenever the board of supervisors levies an assessment authorized by this chapter for the installation or maintenance of lights, the assessment shall be levied pursuant to Chapter 6.1 (commencing with Section 54701) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 18. Section 19176.1 of the Streets and Highways Code is repealed.

SEC. 19. Section 19176.1 is added to the Streets and Highways Code, to read:

19176.1. Whenever the board of supervisors levies an assessment authorized by Section 19176, the assessment shall be levied pursuant to Chapter 6.1 (commencing with Section 54701) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 20. Section 19180.1 of the Streets and Highways Code is repealed.

SEC. 21. Section 19180.1 is added to the Streets and Highways Code, to read:

19180.1. Whenever the board of supervisors levies an assessment authorized by Section 19180, the assessment shall be levied pursuant to Chapter 6.1 (commencing with Section 54701) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 22. Section 19180.2 of the Streets and Highways Code is repealed.

SEC. 23. Section 19181 of the Streets and Highways Code is amended to read:

19181. When the estimate has been made, the board of supervisors of the county shall, at the time of levying county taxes, levy a special tax upon all of the taxable property within the district at the equalized value thereof sufficient to raise the amount of the estimate.

SEC. 24. Section 19184 of the Streets and Highways Code is amended to read:

19184. The special tax shall be levied, computed, entered, collected, and enforced at the same time, in the same manner, by the same persons and with the same penalties and priority of lien as other taxes for county purposes and when collected shall be paid into the county treasury to the credit of the fund of the district and shall be used only for the payment of the expenses of the district.

SEC. 25. Section 22 of the Drainage District Act of 1885 (Chapter 158 of the Statutes of 1885), as added by Chapter 1053 of the Statutes of 1980, is repealed.

SEC. 26. Section 23 of the Drainage District Act of 1885 (Chapter 158 of the Statutes of 1885), as added by Chapter 1053 of the Statutes of 1980, is repealed.

SEC. 27. The provisions of this act are not intended to and shall not be construed to affect any benefit assessment proceedings undertaken prior to the effective date of this act pursuant to provisions of law which were in effect prior to the effective date of this act. The provisions of Section 54717 of the Government Code shall not be construed as requiring a local agency to secure the approval of the voters in order to continue to levy an assessment already approved by the voters in accordance with statutes amended or repealed by this act.

(a) For any local agency which has, prior to the effective date of this act, adopted by ordinance or resolution, and received voter approval of, a benefit assessment pursuant to statutes amended or repealed by this act, such proceedings shall be deemed to be in compliance with the provisions of this act. The local agency may levy such assessment pursuant to the provisions of such ordinance or resolution for all fiscal years following the date of this act pursuant to subdivision (b) of Section 54717 of the Government Code.

(b) For any local agency which has, prior to the effective date of this act, adopted by ordinance or resolution, and levied, a benefit assessment pursuant to statutes amended or repealed by this act, but which has not obtained voter approval of the assessment, the proceedings for the adoption and levy of the assessment shall be

deemed to be in compliance with the provisions of this act.

The local agency may levy the benefit assessment pursuant to the provisions of the ordinance or resolution pursuant to subdivision (b) of Section 54717 of the Government Code for all fiscal years following the effective date of this act; provided that prior to the first assessment levied pursuant to subdivision (b) of Section 54717, the local agency shall place before the voters of the agency or zone the question whether the local agency shall be authorized to levy assessments and the question must be approved by a majority of the voters voting on the question. The approval of the voters may be secured at a local or countywide election, or by a ballot mailed to each property owner or registered voter of the local agency or zone, as the case may be.

(c) For any local agency which has, prior to the effective date of this act, adopted, by ordinance or resolution, a benefit assessment pursuant to statutes amended or repealed by this act, but which has not levied or obtained voter approval of the assessment, the adoption of such ordinance or resolution shall be deemed to be in compliance with the provisions of this act. However, prior to the initial levy of the assessment the local agency shall submit the proposed benefit assessment to the voters pursuant to the requirements of Section 54717 of the Government Code.

If the proposition is approved by the voters pursuant to Section 54717 of the Government Code, the local agency may levy such assessment pursuant to the provisions of such ordinance or resolution for all fiscal years following the date of the approval of the assessment pursuant to subdivision (b) of Section 54717 of the Government Code.

SEC. 28. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act and in other provisions of current law to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 29. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Legislature may provide a uniform procedure for the adoption of benefit assessments at the earliest possible date so that needed public services may be financed, and in order to conform and revise certain provisions relating to fire protection districts as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 488

An act to add Section 1174.5 to the Code of Civil Procedure, relating to real property.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 1174.5 is added to the Code of Civil Procedure, to read:

1174.5. A judgment in unlawful detainer declaring the forfeiture of the lease or agreement under which real property is held shall not relieve the lessee from liability pursuant to Section 1951.2 of the Civil Code.

CHAPTER 489

An act to amend Section 66499.3 of the Government Code, relating to subdividers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 66499.3 of the Government Code is amended to read:

66499.3. Security to guarantee the performance of any act or agreement shall be in the following amounts:

(a) An amount determined by the legislative body, not less than 50 percent nor more than 100 percent of the total estimated cost of the improvement or of the act to be performed, conditioned upon the faithful performance of the act or agreement; and

(b) An additional amount determined by the legislative body, not less than 50 percent nor more than 100 percent of the total estimated cost of the improvement or the performance of the required act, securing payment to the contractor, to the subcontractors, and to persons furnishing labor, materials, or equipment to them for the improvement or the performance of the required act.

(c) Whenever an entity required to furnish security in accordance with subdivisions (a) and (b) is a California nonprofit corporation, funded by the United States of America or one of its agencies, or funded by this state or one of its agencies, the entity shall not be required to comply with subdivisions (a) and (b), if the following conditions are met:

(1) The contractor installing the improvements has bonded to the nonprofit corporation and the local agency as coobligee the amount of 100 percent of the contract for the faithful performance of the work, and has further bonded to the nonprofit corporation and the local agency as coobligee an amount of not less than 50 percent of the contract for the payment of labor and materials, and those bonds comply with the provisions of this chapter.

(2) All moneys payable to the contractor by the nonprofit corporation are deposited in a depository complying with the provisions of this chapter, and out of which moneys progress payments are conditioned upon:

(A) The contractor's certification to the nonprofit corporation that all labor performed in the work, and all materials furnished to and installed in the work, have been paid for in full to the date of the certification.

(B) The written approval of the nonprofit corporation.

(C) Final payment to the contractor not being made until 60 days shall have expired after the filing and recording of the notice of completion of the work and acceptance of the work by the local agency in writing.

(3) All certifications as to progress payments shall be delivered through the United States mail to the nonprofit corporation. The term "progress payments" means payments made in compliance with the schedule of partial payments agreed upon in the contract for the work. No less than 10 percent of the total contract price shall be retained for the 60 days following the filing of the notice of completion.

(d) An amount determined by the legislative body necessary for the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is essential that the current housing shortage, particularly in rural areas, be alleviated in the shortest possible time. It is necessary that this act, which would facilitate the financing of housing construction, go into immediate effect.

CHAPTER 490

An act to add Section 1100.2 to the Insurance Code, relating to insurance.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 1100.2 is added to the Insurance Code, to read:

1100.2. Notwithstanding the provisions of Section 1100, an insurer may own shares of an open-end diversified management investment company, as defined in the Federal Investment Company Act of 1940, that meets all of the following standards:

(a) It is registered with and reporting to the United States Securities and Exchange Commission.

(b) It is domiciled in the United States with all assets held in the United States by a bank, trust company or other authorized custodian chartered by the United States, its territories, possessions or states.

(c) It has assets in excess of one hundred million dollars ($100,000,000).

(d) Its annual management investment fee shall not exceed .4 of 1 percent of the average daily asset value, and no other fees or commissions shall be charged to the insurer by any person.

(e) All of its assets are composed of (1) debt obligations issued by or on behalf of the United States, its territories and possessions, the District of Columbia, and states or their political subdivisions, agencies and instrumentalities, including industrial development obligations; (2) corporate debt obligations other than debt obligations of the insurer or any company affiliated with the insurer; or, (3) accounts, deposits or obligations of banks or savings and loan associations. The assets shall be required to meet the requirements of and be authorized for investment by such insurer under Articles 3 (commencing with Section 1170) and 4 (commencing with Section 1190) of Chapter 2.

(f) Share certificates of the management investment company shall be issued to the insurer or be retained by a bank, trust company, or other entity other than the management investment company which is authorized by the United States to act as a transfer and dividend paying agent for the management investment company.

(g) All shares of the management investment company shall be of the same class with equal rights and privileges. Each share shall be entitled to one vote and to participate equally in dividends and distributions declared by the management investment company and in the net distributable assets of the management investment company on liquidation. When issued, the shares shall be fully paid and nonassessable and shall have no preemptive, conversion or exchange rights.

(h) Shareholders shall be entitled to require the management investment company to redeem all shares.

CHAPTER 491

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Pursuant to Section 5096.96 of the Public Resources Code, the City of Santa Ana may sell, for fair market value, the real property comprising West Reservoir Park, as described in the Department of Parks and Recreation project #30-0023, which was acquired with the grant of state funds appropriated in Item 412A(186) of the Budget Act of 1974 (Chapter 375, Statutes of 1974, as amended by Chapter 1522, Statutes of 1974), if the City of Santa Ana does the following:

(a) Uses the proceeds of that sale for the development of new, or the improvement of existing, outdoor park and recreation facilities at parklands within the city that would allow for their use by generally the same persons served by West Reservoir Park, subject to the approval of the Department of Parks and Recreation, and enters into an agreement with the department with respect to those parklands as provided in Section 5096.96 of the Public Resources Code.

(b) Returns any of the proceeds of that sale not used pursuant to subdivision (a) to the Department of Parks and Recreation for deposit in the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

SEC. 2. Pursuant to Section 5096.137 of the Public Resources Code, the City of Santa Ana may sell, for fair market value, the real property comprising the La Bonita Park, as described in the Department of Parks and Recreation project #76-30058, which was acquired with the grant of state funds appropriated in Item 518(149) of the Budget Act of 1978 (Chapter 359, Statutes of 1978), if the City of Santa Ana does the following:

(a) Uses the proceeds of that sale for the development of new, or the improvement of existing, park and recreation facilities at parklands within the city that would allow for their use by generally the same persons served by La Bonita Park, subject to the approval of the Department of Parks and Recreation, and enters into an agreement with the department with respect to those parklands as provided in Section 5096.137 of the Public Resources Code.

(b) Returns any of the proceeds of that sale not used pursuant to subdivision (a) to the Department of Parks and Recreation for deposit in the State, Urban, and Coastal Park Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the West Reservoir and La Bonita park sites in the City of Santa Ana may be sold and replacement park facilities purchased or constructed at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 492

An act to amend Sections 3703.1 and 3757.2 of, and to add Section 3826 to, the Public Resources Code, relating to geothermal resources, and making an appropriation therefor.

[Approved by Governor July 9, 1982. Filed with Secretary of State July 10, 1982.]

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

SECTION 1. Section 3703.1 of the Public Resources Code is amended to read:

3703.1. "Low-temperature geothermal well" means a well drilled for the purpose of producing geothermal resources, as defined in Section 6903, from which fluids can be produced which have value by virtue of the heat contained therein and have a temperature that is not more than the boiling point of water at the altitude of occurrence.

SEC. 2. Section 3757.2 of the Public Resources Code is amended to read:

3757.2. For the purpose of developing low-temperature geothermal resources, the supervisor may approve the exemption of any low-temperature geothermal well from Sections 3721, 3722, 3723, 3723.5, 3725.5, and 3745, if the resource is used domestically or in a noncommercial manner. The supervisor may also approve the drilling of low-temperature geothermal wells at whatever locations he deems advisable, if no well is drilled or permitted to produce which is located within 15 feet of the outer boundary of the parcel of land on which the well is situated or within 15 feet of a public road, street, or highway dedicated prior to the commencement of drilling.

SEC. 3. Section 3826 is added to the Public Resources Code, to read:

3826. For all lands of the United States which are received by the State Lands Commission as indemnity lands pursuant to Section 851 of Title 43 of the United States Code after July 1, 1980, the revenue received by the state from the leasing of these lands for geothermal development shall be distributed as follows:

(a) Fifty percent of all revenues shall be deposited in the Geothermal Resources Development Account and disbursed pursuant to this chapter.

(b) Fifty percent of all revenues shall be deposited in the General Fund.

CHAPTER 493

An act to amend Sections 74963, 74965, 74969, and 74970 of, and to add Section 69893.7 to, the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State July 11, 1982.]

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

SECTION 1. Section 69893.7 is added to the Government Code, to read:

69893.7. In each county with a population of 113,000 and not more than 114,000, as determined by the 1980 Federal Census, the superior court, with the approval of the board of supervisors, may establish such job classifications and may appoint such officers, assistants, and employees as are deemed necessary for the performance of the duties and the exercise of the powers conferred by law upon the superior court and its members. The compensation, including salary, retirement, vacations, and other benefits may be established and adjusted by the board of superviors. The board of supervisors may extend the management benefit package to officers, assistants, and employees of the superior court, including judges, on the same basis that it is extended to other officers and employees of the county. Unless otherwise provided by law, employees of the superior court are subject to the personnel regulations, memoranda of understanding and affirmative action plan of the county.

SEC. 2. Section 74963 of the Government Code is amended to read:

74963. There shall be one clerk of the court (subject to the provisions of Section 74968) who shall be appointed by the presiding judge of the municipal court and who shall hold office at the pleasure of the presiding judge. The clerk shall receive a monthly salary at a rate specified in range 18.49.

SEC. 3. Section 74965 of the Government Code is amended to read:

74965. The clerk (subject to the provisions of Section 74968) with the approval of the presiding judge may appoint:

(a) Three municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 11.83.

(b) Nine municipal court clerks II, who shall receive a monthly salary at a rate specified in range 10.15.

(c) One general clerk III, who shall receive a monthly salary at a rate specified in range 9.05.

(d) Five municipal court clerks I, each of whom shall receive a

monthly salary at a rate specified in range 8.61, or five typist-clerks II, each of whom shall receive a monthly salary at a rate specified in range 8.23. The combined total of positions in the municipal court clerk I and typist-clerk II classifications shall not exceed five positions.

(e) Three account clerks II, who shall receive a monthly salary at a rate specified in range 9.19, or three account clerks I, each of whom shall receive a monthly salary at a rate specified in range 8.36. The combined total of positions in the account clerk II and account clerk I classifications shall not exceed three positions.

(f) Two interpreter clerks who shall receive a monthly salary at a rate specified in range 8.61.

SEC. 4. Section 74969 of the Government Code is amended to read:

74969. Whenever reference to a numbered salary range is made in any section of this article, the schedule of monthly salaries found in the salary resolution of the County of Yolo in effect on January 1, 1982, shall apply.

SEC. 5. Section 74970 of the Government Code is amended to read:

74970. All officers and employees of the Yolo County Municipal Court shall be entitled to the same provisions with respect to retirement, vacations, and other benefits allowed to employees of the county, and be subject to the personnel regulations, memoranda of understanding, management benefit package, and the affirmative action plan of the County of Yolo as they exist on January 1, 1982.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 494

An act to amend Section 5230 of, to add Sections 5412.1, 5412.2, 5412.3, and 5412.4 to, and to repeal and add Section 5412 of, the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor July 11, 1982. Filed with Secretary of State July 11, 1982.]

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

SECTION 1. The Legislature finds that it is in the public interest that consistent statewide standards be established for laws, ordinances, and regulations governing the removal of lawfully erected outdoor advertising displays. This uniformity will eliminate

the uncertainty concerning the validity of removal efforts by local entities, provide a mechanism for local entities to adopt effective removal and relocation programs, establish standards which will allow private owners to operate without the imposition of different removal requirements in each jurisdiction, and will eliminate the multitude of expensive and time-consuming lawsuits burdening local entities, display and property owners, and the judicial system.

In order to study and develop statewide standards, the Governor's Outdoor Advertising Committee was established and, after extensive study, recommended the statutory amendments contained in this act.

SEC. 2. Section 5230 of the Business and Professions Code is amended to read:

5230. The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by this chapter, if Section 5412 is complied with.

SEC. 3. Section 5412 of the Business and Professions Code is repealed.

SEC. 4. Section 5412 is added to the Business and Professions Code, to read:

5412. Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located.

This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity.

"Relocation," as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure

of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity.

SEC. 5. Section 5412.1 is added to the Business and Professions Code, to read:

5412.1. A city, county, or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an area shown as residential on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for residential use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of Notice of Removal Requirement	Minimum Years Allowed
Under $1,999	2
$2,000 to $3,999	3
$4,000 to $5,999	4
$6,000 to $7,999	5
$8,000 to $9,999	6
$10,000 and over	7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

SEC. 6. Section 5412.2 is added to the Business and Professions Code, to read:

5412.2. A city or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an incorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of Notice of Removal Requirement	Minimum Years Allowed
Under $1,999	2
$2,000 to $3,999	3
$4,000 to $5,999	4
$6,000 to $7,999	5
$8,000 to $9,999	6
$10,000 and over	7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

SEC. 7. Section 5412.3 is added to the Business and Professions Code, to read:

5412.3. A county whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the county elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an unincorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the adoption or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of Notice of Removal Requirement	Minimum Years Allowed
Under $1,999	3.0
$2,000 to $3,999	4.5
$4,000 to $5,999	6.0
$6,000 to $7,999	7.5
$8,000 to $9,999	9.0
$10,000 and over	10.5

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

SEC. 8. Section 5412.4 is added to the Business and Professions Code, to read:

5412.4. Section 5412 shall not be applied in any judicial proceeding which was filed and served by any city, county, or city and county prior to January 1, 1982, except that Section 5412 shall be applied in litigation to prohibit the removal without compensation of any advertising display located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, or any advertising display placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway that is placed with the purpose of its message being read from the main traveled way of the highway.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or

eliminates a crime or infraction.

CHAPTER 495

An act to amend Section 12852 of the Public Utilities Code, relating to municipal utility districts.

[Became law without Governor's signature. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Section 12852 of the Public Utilities Code is amended to read:

12852. The provisions of Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 and the limitation on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code shall not apply to the issuance and sale of bonds pursuant to this article. Whenever a district proposes to exercise the power to issue bonds pursuant to this article, the board shall adopt a preliminary resolution declaring its intention to authorize the issuance of bonds, which resolution shall specify all of the following:

(a) The purpose for which the proposed bonds are to be issued.

(b) The maximum principal amount of the bonds then proposed to be issued.

(c) The maximum term for which any of the bonds are to run.

(d) The maximum rate of interest to be payable upon the bonds which rate shall be determined by the board; provided, that the bonds may be sold at a discount not to exceed 6 percent of par value.

CHAPTER 496

An act to amend Sections 25153, 25160, 25174, 25174.3, 25183, 25186, 25189, 25191, 25342, 25344, 25345, and 25347 of, and to add Sections 25120, 25145.4, 25149.3, 25174.2, 25174.4, 25189.5, 25345.3, and 25356.5 to, and to repeal and add Section 25356 to, the Health and Safety Code, and to amend Sections 43002, 43012, 43051, 43052, 43102, 43151, 43152, 43201, 43301, 43303, 43306, 43402, 43443, 43452, 43478, and 43602 of, to add Chapter 9 (commencing with Section 43651) to Part 22 of, to repeal and add Sections 43008 and 43101 of, to repeal Sections 43153, 43411, 43412, 43506, and 43601 of, and to repeal Article 3 (commencing with Section 43251) of Chapter 3 of Part 22 of, the Revenue and Taxation Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Section 25120 is added to the Health and Safety Code, to read:

25120. "Producer" means any person who generates a waste material.

SEC. 2. Section 25145.4 is added to the Health and Safety Code, to read:

25145.4. No provision of this chapter, or any ruling of the department or director, shall be construed to limit or abridge the power of the Attorney General, at the request of the department or director, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin any violation of the provisions of this chapter, seek necessary remedial action by any person who violates any of the provisions of this chapter, or seek civil and criminal penalties against any person who violates any of the provisions of this chapter. court as provided by Section 68206 of the Government Code ..... $ 53,767 (b) To San Joaquin County, in augmenta- tion of Item 0440-101-011 of the Budget Act of 1982, for reimburse- ment of costs incurred pursuant to this act as provided in Section 2231 of the Revenue and Taxation Code ..... 120,000 (c) To San Joaquin County, without regard to fiscal year, for the state share of salaries of judges of the superior court as provided in Section 68206 of the Government Code upon the occurrence of a vacancy in the office of juvenile court referee and the establishment of an additional judgeship as provided in Section 69598 of the Government Code as amended by Section 1 of this act 53,767 --------- $227,534 (et)

SEC. 3. Section 25149.3 is added to the Health and Safety Code, to read:

25149.3. (a) Upon the request of any interested person, the department shall examine and determine whether or not the use of any property for any one of the purposes set forth in paragraph (1) of subdivision (b) of Section 25232 constitutes a significant existing or potential hazard to present or future health or safety because of the proximity of the property to an existing hazardous waste facility as defined in this article. If the department determines that a significant existing or potential hazard to present or future public health or safety exists on the property, it shall give notice and hold a hearing pursuant to Article 11 (commencing with Section 25220). If the department determines that there is no significant existing or potential hazard to present or future public health or safety on the property, it shall so notify the person who requested the determination and the local jurisdiction.

(b) All costs incurred by the department pursuant to this section shall be borne by the person making the request. The authority

conferred on the department, pursuant to this section, shall be in addition to its authority with respect to the regulation of hazardous waste property and border zone property. A special account administered by the department shall be established for each request made to the department for the examination and determination specified in subdivision (a). The department shall provide the requesting person an estimate of the amount of money which would be necessary to accomplish the examination and determination by the department pursuant to that request. The estimated amount, which shall be paid to the department before the department undertakes any activity pursuant to subdivision (a), shall be deposited in the special account. Expenditures from this special account shall not be made in excess of the total amount of money in that special account at any time. Expenditures in excess of the initial deposit may be made only when additional money is received from the requesting person and deposited into the account.

Notwithstanding any other provision of law, the department may enter into contracts for any action taken, or to be taken, pursuant to subdivision (a). These contracts do not require approval by the Department of General Services pursuant to Article 1 (commencing with Section 14780) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code.

(c) A local jurisdiction shall not take any action with respect to the uses of land for any of those purposes, including, but not limited to, a general plan amendment, zoning change, or the imposition of conditions on the use of property, which land is subject to an existing zoning classification which permits the uses set forth in paragraph (1) of subdivision (b) of Section 25232 for which an examination and determination has been requested pursuant to subdivision (a), solely on the basis of a health hazard due to the property's proximity to an existing hazardous waste facility, unless the department has made a determination, pursuant to subdivision (a), that those uses of the property constitute a significant existing or potential hazard to present or future public health or safety.

(d) No application for a building permit or for the use of property which is the subject of a request pursuant to subdivision (a) shall be acted upon pending a determination by the department, unless the permit or use is not for a purpose set forth in paragraph (1) of subdivision (b) of Section 25232.

The department shall act upon the request within 90 days.

(e) This section shall not apply to any land or property which is more than one mile from a significant disposal of hazardous waste within an existing hazardous waste facility, as defined in this article.

SEC. 4. Section 25153 of the Health and Safety Code is amended to read:

25153. Any person who is producing a material which he or she knows, or should know, or may reasonably consider, to be an extremely hazardous waste, and which he or she does not intend to recycle for reuse and intends to dispose of, shall notify the

department of his or her intent to dispose of that material. The notification shall be sworn to or submitted under penalty of perjury.

SEC. 5. Section 25160 of the Health and Safety Code is amended to read:

25160. The person producing a hazardous waste shall provide the driver of any truck, a crew member of any train, or the captain of any vessel carrying such hazardous wastes with a list setting forth: (a) the hazardous wastes carried, (b) the amount of the waste, (c) the general chemical and mineral composition of the waste listed by probable maximum and minimum percentages, and (d) the origin and destination of the waste carried. The list, when appropriate, shall include information on antidotes, first aid, or safety measures to be taken in case of accidental contact with the particular hazardous waste being carried. The person carrying, or handling the hazardous waste shall have the list in his possession while carrying or handling the hazardous waste and shall release the list to a person responsible for disposal of the hazardous waste at the time of delivery. The list shall be shown upon demand to any department official, officer of the California Highway Patrol, any local health officer, or any local public officer as designated by the director.

SEC. 6. Section 25174 of the Health and Safety Code is amended to read:

25174. Each operator of any site at which hazardous wastes or extremely hazardous wastes are disposed, including every person who disposes of those wastes on site, shall pay a fee to the State Board of Equalization for disposal of those wastes. The director shall establish a schedule of the fees to be paid to the State Board of Equalization by the operator for disposal of hazardous or extremely hazardous waste, which shall provide revenues which shall not exceed the amount necessary, but shall be sufficient, to cover all costs incurred in the administration of this chapter. The fees shall be deposited by the State Board of Equalization in the Hazardous Waste Control Account in the General Fund. The funds deposited in that account are continuously appropriated for expenditure without regard to fiscal years for the following purposes:

(a) To the State Board of Equalization to pay refunds of taxes authorized by Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(b) To the department to carry out the provisions of this chapter.

SEC. 7. Section 25174.2 is added to the Health and Safety Code, to read:

25174.2. Any change in the schedule of fees established pursuant to Section 25174 shall become effective as of the first day of the first calendar month, or any calendar month designated by the director, which begins at least 60 days after the director has advised the State Board of Equalization in writing of the change.

This section shall become operative on January 1, 1983.

SEC. 7.3. Section 25174.3 of the Health and Safety Code is amended to read:

25174.3. The fee authorized by Section 25174 shall be calculated to produce revenues in an amount necessary also to cover all costs incurred in the administration of Section 13227 of the Water Code. It is the intent of the Legislature that funds be annually appropriated in the Budget Act from the Hazardous Waste Control Account to the State Water Resources Control Board for all costs incurred by the board in administering Section 13227 of the Water Code.

SEC. 7.5. Section 25174.4 is added to the Health and Safety Code, to read:

25174.4. Funds deposited in the Hazardous Waste Control Account pursuant to Section 25174 may also be used to support toxic research and information programs.

SEC. 8. Section 25183 of the Health and Safety Code is amended to read:

25183. Any civil action brought pursuant to this chapter shall be brought in the county in which the processing or disposal of hazardous waste is made or proposed to be made, the county in which the principal office of the defendant is located, or the county in which the Attorney General has an office nearest to the county in which the principal office of the defendants, or any of them, is located in this state.

SEC. 9. Section 25186 of the Health and Safety Code is amended to read:

25186. (a) The director, after a public hearing, may suspend or revoke any registration or permit issued pursuant to the provisions of this chapter based on any of the following:

(1) A violation of any provision of this chapter or any applicable requirement promulgated by the department pursuant to this chapter.

(2) The aiding or abetting the violation of any provision of this chapter or any requirement promulgated by the department pursuant to this chapter.

(3) An act or omission associated with the transportation of hazardous wastes that could cause or allow hazard to public health or safety, domestic livestock, or wildlife.

(4) The misrepresentation or omission of a significant fact either in the application for the registration or in information subsequently reported to the department.

(5) Noncompliance with an order issued by the director.

(b) In addition to the remedies provided in Section 25168.2, the director may temporarily suspend any certification of a truck, trailer, vacuum tank, cargo tank, or other container used to transport hazardous waste and may suspend the registration of a hazardous waste hauler issued pursuant to the provisions of this chapter prior to any hearing when, in the director's opinion, that action is necessary to prevent an imminent and substantial danger to health or the environment. The director shall notify the holder of the certification or registration of the temporary suspension and the effective date thereof and, at the same time, shall serve the holder

with an accusation. Upon receipt of a notice of defense to the accusation, the director shall set the matter for a hearing which shall be held as soon as possible, but not later than 10 days after receipt of the notice of defense. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits, which in any event shall be made within 10 days after the completion of the hearing. If the determination is not transmitted within 10 days after the hearing is completed, the temporary suspension shall be of no further effect.

SEC. 10. Section 25189 of the Health and Safety Code is amended to read:

25189. (a) Any person who intentionally or negligently makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Except as provided in subdivision (c) or (d), any person who intentionally or negligently violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, shall be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues.

(c) Any person who intentionally disposes or causes the disposal of any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not less than one thousand dollars ($1,000) or more than twenty-five thousand dollars ($25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person has knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the director or a court of competent jurisdiction for the cleanup.

(d) Any person who negligently disposes or causes the disposal of any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person had knowledge thereof is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with any order concerning the deposit issued by the director or a court of competent jurisdiction for the cleanup.

(e) Each civil penalty imposed for any separate violation pursuant

to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

SEC. 11. *Section 25189.5 is added to the Health and Safety Code, to read:*

25189.5. (a) The disposal of any hazardous or extremely hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit from the department issued pursuant to the provisions of this chapter, or at any point which is not authorized according to the provisions of this chapter.

(b) Any person who is convicted of knowingly disposing of any hazardous or extremely hazardous waste or who causes any such waste to be disposed of at a facility which does not have a permit from the department issued pursuant to the provisions of this chapter, or at any point which is not authorized according to the provisions of this chapter shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment. If the conviction is for a violation committed after the first conviction of the person under this section, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or by imprisonment in the county jail for not to exceed one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both that fine and imprisonment.

SEC. 12. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person under this section, such person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not to exceed one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both such fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to the provisions of this chapter in response to a real and substantial danger.

(b) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person under this section, such person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not to exceed one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both such fine and imprisonment.

(1) Transports any hazardous waste to a facility which does not have a permit from the department issued pursuant to this chapter, or to any point which is not authorized according to the provisions of this chapter.

(2) Treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to the provisions of this chapter, or at any point which is not authorized according to the provisions of this chapter.

SEC. 13. Section 25342 of the Health and Safety Code is amended to read:

25342. On or before March 1, 1982, and March 1 of each year thereafter, every person who submitted for disposal offsite, or who disposed of onsite, hazardous waste or extremely hazardous waste in the state during the preceding calendar year shall report to the board the following information:

(a) The total amount of hazardous or extremely hazardous waste, as defined by Sections 25117 and 25115, respectively, the federal regulation of which has been suspended under the Solid Waste Disposal Act (42 U.S.C. 6901) by act of Congress, which that person has disposed of, or submitted for disposal, in the state, plus the total amount of hazardous or extremely hazardous waste and material, on a total wet weight basis, and which that person has transferred to a surface impoundment in the state for purposes of reducing the water content of the waste and material by evaporation, exclusive of that waste specified in subdivision (d).

(b) The total amount of hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (c), and (d).

(c) The total amount of extremely hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (b), and (d).

(d) The total amount of hazardous or extremely hazardous waste that person has disposed of, or submitted for disposal, in the state from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from mining of uranium ore.

SEC. 14. Section 25344 of the Health and Safety Code is amended to read:

25344. On April 15th of each year, the board shall certify to the Governor:

(a) The total amount of waste and material specified by all persons pursuant to subdivision (a) of Section 25342.

(b) The total amount of waste specified by all persons pursuant to subdivision (b) of Section 25342.

(c) The total amount of waste specified by all persons pursuant to subdivision (c) of Section 25342.

(d) The total amount of waste specified by all persons pursuant to subdivision (d) of Section 25342.

(e) The total amount of taxes to be collected pursuant to this chapter.

SEC. 15. Section 25345 of the Health and Safety Code is amended to read:

25345. (a) There is hereby imposed a tax, payable annually, and to be collected by the board, upon each ton or fraction thereof, of waste and material specified in Section 25342, according to the formula specified herein. The board shall set the base tax rate upon the waste and material specified in Section 25342 in accordance with the following formula:

$$\text{Base tax rate} = \frac{(\$10{,}000{,}000\text{-M})}{(0.15W_1+W_2+2W_3+0.01W_4)}$$

where:

(1) "M" is the existing unobligated balance in the fund (M shall equal zero (0) for June 30, 1982). As used in this article, "unobligated balance" means all unencumbered funds in the account as of June 30, as estimated on March 1 of each year, less:

(A) Any funds in the reserve account for emergencies established by Section 25354.

(B) Any remaining principal of the loan authorized by Section 25332.

(C) Any interest due on any remaining principal of the loan authorized by Section 25332.

(D) Any funds paid as taxes for the following fiscal year.

(E) Any funds received from the federal government pursuant to the federal act.

The unobligated balance shall not be less than zero (0).

(2) W_1 is the total amount in tons of waste and material specified in subdivision (a) of Section 25344.

(3) W_2 is the total amount in tons of waste specified in subdivision (b) of Section 25344.

(4) W_3 is the total amount in tons of waste specified in subdivision (c) of Section 25344.

(5) W_4 is the total amount in tons of waste specified in subdivision (d) of Section 25344.

(b) On or before May 1 of each year, using the formula specified in subdivision (a), the board shall determine the base tax rate for the current year.

(c) The tax imposed upon each person subject to Section 25342 shall be assessed according to the following formula:

$$\text{Tax} = (\text{base tax rate}) \times (0.15\,P_1 + P_2 + 2P_3 + 0.01P_4)$$

where:

(1) "Base tax rate" equals the figure determined pursuant to subdivision (a).

(2) P_1 is the amount in tons of waste and material specified by the person pursuant to subdivision (a) of Section 25342.

(3) P_2 is the amount in tons of waste specified by the person pursuant to subdivision (b) of Section 25342.

(4) P_3 is the total amount in tons of waste specified by the person pursuant to subdivision (c) of Section 25342.

(5) P_4 is the total amount in tons of waste specified by the person pursuant to subdivision (d) of Section 25342.

(d) On or before May 1 of each year, the board shall send to each person subject to Section 25342 a notice of assessment.

(e) On or before July 1 of each year, each person subject to Section 25342 shall pay to the board the amount of the assessment as stated in the notice. The tax under this chapter shall not be imposed again on hazardous waste or extremely hazardous waste if the waste, or any portion thereof, is removed subsequently to another place for disposal and if the person has paid the amount of assessment for the waste in accordance with this section before the removal thereof.

SEC. 16. Section 25345.3 is added to the Health and Safety Code, to read:

25345.3. (a) Any state or local agency, or its contractor, which removes or remedies a release, by another person, of hazardous waste or extremely hazardous waste, shall not be subject to the requirements of Sections 25342 and 25345. This subdivision shall be applicable to all acts performed by a state or local agency, or its contractor, on or after September 25, 1981.

(b) The person responsible for a release of hazardous or extremely hazardous waste, which has been removed or remedied by a state or local agency, or its contractor, shall submit to the board the information required by Section 25342 for the hazardous or

extremely hazardous waste which was released and shall also pay the tax provided in Section 25345.

SEC. 16.3. Section 25356 of the Health and Safety Code is repealed.

SEC. 16.7. Section 25356 is added to the Health and Safety Code, to read:

25356. (a) Except as provided in Section 25356.5, on or before April 1, 1983, the department shall adopt by regulation the criteria for the selection and for the priority ranking of sites for remedial action under this chapter. The criteria shall take into account the pertinent factors relating to the public health and the environment, which shall include, but are not limited to, potential hazards to public health and environment, the risk of fire or explosion, toxic hazards, and the criteria established pursuant to Section 105 (8) of the federal act (42 U.S.C. 9605 (8)).

(b) The department shall publish and revise at least annually a priority ranking of sites. The list shall be transmitted to the Legislature on or before January 10 of each year. The development and publication of the priority ranking of sites shall be subject to the regulations adopted under subdivision (a).

(c) The department's development and publication of the priority ranking of sites shall not be subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Funds appropriated to the department for remedial action shall be expended in conformance with the priority ranking of sites. Funds may be expended on more than one site on the list at any one time.

SEC. 16.9. Section 25356.5 is added to the Health and Safety Code, to read:

25356.5. On or before July 1, 1982, the department shall provide a report to the Legislature which lists the sites upon which funds are proposed to be expended during the 1982–83 fiscal year and the criteria and rationale upon which the list is based. Funds appropriated to the department from the account for remedial action for fiscal year 1982–83 shall be expended by the department only on those sites listed in this report.

SEC. 17. Section 25347 of the Health and Safety Code is amended to read:

25347. (a) In no event shall the total taxes collected in any one fiscal year pursuant to this chapter exceed the difference between ten million dollars ($10,000,000) and the existing unobligated balance in the state account as of March 31 of the preceding fiscal year, including any amount collected pursuant to subdivision (b) by that date, or ten million dollars ($10,000,000), whichever is less.

(b) This section shall not be construed to prevent the board from collecting any taxes which are not paid when due, or from issuing any determination pursuant to Section 43201 of the Revenue and Taxation Code. Any such determination of taxes shall be at the tax

rates established pursuant to Section 25345 of this code for the period for which the determination is issued.

SEC. 18. Section 43002 of the Revenue and Taxation Code is amended to read:

43002. The collection and administration of the fees and taxes referred to in Sections 43051 and 43052 shall be governed by the definitions contained in Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300), respectively, of Division 20 of the Health and Safety Code, unless expressly superseded by the definitions contained in this part.

SEC. 19. Section 43008 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 43008 is added to the Revenue and Taxation Code, to read:

43008. The fee imposed by Section 25174 of the Health and Safety Code is a tax for purposes of this part.

SEC. 21. Section 43012 of the Revenue and Taxation Code is amended to read:

43012. For purposes of this part, "taxpayer" means any person liable for the payment of a fee or a tax imposed by Section 25174 or 25345 of the Health and Safety Code.

SEC. 22. Section 43051 of the Revenue and Taxation Code is amended to read:

43051. The fee imposed pursuant to Section 25174 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 23. Section 43052 of the Revenue and Taxation Code is amended to read:

43052. The taxes imposed pursuant to Section 25345 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 24. Section 43101 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 43101 is added to the Revenue and Taxation Code, to read:

43101. Every person who operates a facility for the disposal of hazardous wastes, disposes of hazardous wastes on premises owned or controlled by him or her, or submits hazardous wastes to others for disposal shall register with the board.

SEC. 26. Section 43102 of the Revenue and Taxation Code is amended to read:

43102. The board, whenever it deems it necessary to insure compliance with this part, may require any person subject to this part to place with it such security as the board may determine to be reasonable, taking into account the circumstances of that person. The board may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security

personally or by mail. If service is made by mail, service shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 27. Section 43151 of the Revenue and Taxation Code is amended to read:

43151. The taxes collected and administered under Section 43051 are due and payable to the board monthly on or before the 15th day of each calendar month. Each taxpayer, on or before the 15th day of each month, shall make out a tax return for the preceding calendar month, in the form as prescribed by the board, showing the total amount of hazardous waste subject to the tax, the amount of tax for the period covered by the return, and any other information that the board deems necessary. The taxpayer shall deliver the return, together with a remittance of the amount of tax due, to the office of the board on or before the 15th day of the month.

With the approval of the board, a taxpayer who has more than one hazardous waste facility subject to the taxes collected and administered under this chapter, may file a combined tax return covering operations at more than one, or all, of those hazardous waste facilities.

This section shall become operative July 1, 1982.

SEC. 28. Section 43152 of the Revenue and Taxation Code is amended to read:

43152. The taxes collected and administered under Section 43052 are due and payable to the board annually on or before July 1 of each year. Each taxpayer, on or before March 1 of each year, shall make out a report for the preceding calendar year, in the form prescribed by the board, showing the information required to be reported by Section 25342 of the Health and Safety Code and any other information that the board deems necessary to carry out the provisions of this part.

The taxpayer shall deliver the report to the office of the board on or before March 1 of each year. The taxpayer shall deliver a remittance of the amount of tax assessed pursuant to Section 25345 of the Health and Safety Code to the office of the board on or before July 1.

SEC. 29. Section 43153 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 43201 of the Revenue and Taxation Code is amended to read:

43201. (a) If the board is dissatisfied with the return or report filed or the amount of tax paid to the state by any taxpayer, or if no

return or report has been filed or no payment or payments of the taxes have been made to the state by a taxpayer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one, or for more than one, period. The amount of tax so determined shall bear interest at the rate of 1 percent per month, or fraction thereof, from the date the amount of the tax, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized regulations, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided above.

(c) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(d) The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, subpost office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 31. Article 3 (commencing with Section 43251) of Chapter 3 of Part 22 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 43301 of the Revenue and Taxation Code is amended to read:

43301. Any person from whom an amount is determined to be due under Article 2 (commencing with Section 43201), or any person directly interested, may petition for a redetermination thereof within 60 days after service upon him or her of notice of the determination. If a petition for redetermination is not filed within the 60-day period, the amount determined to be due becomes final at the expiration thereof.

No petition for redetermination of taxes determined under this part shall be accepted or considered by the board if the petition is

founded upon the grounds that the director has improperly or erroneously determined that any substance is a hazardous or extremely hazardous waste. Any appeal of a determination that a substance is a hazardous or extremely hazardous waste shall be made to the director.

SEC. 33. Section 43303 of the Revenue and Taxation Code is amended to read:

43303. If a petition for redetermination is filed within the 60-day period, the board shall reconsider the amount determined to be due, and, if the person has so requested in his or her petition, the board shall grant him or her an oral hearing and shall give him or her 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

SEC. 34. Section 43306 of the Revenue and Taxation Code is amended to read:

43306. All amounts determined to be due by the board under Article 2 (commencing with Section 43201) are due and payable at the time they become final, and, if not paid when due and payable, a penalty of 10 percent of the amount determined to be due shall be added to the amount due and payable.

SEC. 35. Section 43402 of the Revenue and Taxation Code is amended to read:

43402. In any suit brought to enforce the rights of the state with respect to taxes, a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency of the amount of tax, interest, and penalty set forth therein, and of compliance by the board with all provisions of this part in relation to the computation and levy of the tax. In the action, a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure.

SEC. 36. Section 43411 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 43412 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 43443 of the Revenue and Taxation Code is amended to read:

43443. All persons so notified shall immediately, after receipt of the notice, advise the board of all credits, other personal property, or debts in their possession, under their control, or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, to be effective, shall state the amount, interest, and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or at which the credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be

effective with respect to an amount not in excess of the amount, interest, and penalty due from the person.

SEC. 39. Section 43452 of the Revenue and Taxation Code is amended to read:

43452. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the last day of the calendar month following the close of the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 43201) of Chapter 3, within six months after the determinations become final, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given pursuant to Section 43204.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 43204 if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

(d) No claim for refund of taxes paid under this part shall be accepted, considered, or approved by the board if the claim is founded upon the grounds that the director has improperly or erroneously determined that any substance is a hazardous or extremely hazardous waste. Any appeal of a determination that a substance is a hazardous or extremely hazardous waste shall be made to the director.

SEC. 40. Section 43478 of the Revenue and Taxation Code is amended to read:

43478. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any tax paid when the action is brought by or in the name of an assignee of the taxpayer paying the tax or by any person other than the person who has paid the tax.

As used in this section, "assignee" does not include a person who has acquired the business of the taxpayer which gave rise to the taxes and who is thereby a successor in interest to the taxpayer.

SEC. 41. Section 43506 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 43601 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 43602 of the Revenue and Taxation Code is amended to read:

43602. Any person who refuses to furnish any return or report required to be made, or who refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine in an amount not to exceed five hundred dollars ($500) for each offense.

SEC. 44. Chapter 9 (commencing with Section 43651) is added to

Part 22 of the Revenue and Taxation Code, to read:

CHAPTER 9. DISCLOSURE OF INFORMATION

43651. (a) The board shall provide any and all information obtained under this part to the department.

(b) The department and the board may utilize any information obtained pursuant to this part to develop data on the generation or disposal of hazardous or extremely hazardous waste within the state. Notwithstanding any other provision of this section, the department may make waste generation and disposal data available to the public.

(c) It shall be unlawful for the board, the department, or any person having an administrative duty under Part 9 (commencing with Section 15600) of Division 3 of Title 2 of the Government Code to make known, in any manner whatever, the business affairs, operations, or any other information pertaining to a taxpayer which was submitted to the board in a report or return required by this part, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by subdivision (a) and this subdivision. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(d) Notwithstanding subdivision (c), the successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information regarding the determination of any unpaid tax or the amount of taxes, interest, or penalties required to be collected or assessed.

(e) Nothing in this section shall be construed as limiting or increasing the public's access to information on any aspect of hazardous or extremely hazardous waste generation or disposal collected pursuant to other state or local laws, regulations, or ordinances.

SEC. 45. If Assembly Bill 3696 of the 1981–82 Regular Session of the Legislature is chaptered and takes effect on or before January 1, 1983, and it amends Section 25174 of the Health and Safety Code, that section, as amended by Assembly Bill 3696, shall become operative, and Sections 25174 and 25174.2 of that code, as amended by Section 6 of this act and as added by Section 7 of this act, respectively, shall not become operative, whether Assembly Bill 3696 is chaptered prior to or subsequent to this act.

SEC. 46. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a

local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 47. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to adequately protect the people of this state from risks caused by hazardous waste disposal and to provide for the collection of fees imposed by law upon hazardous material processors and disposers of hazardous wastes to proceed in an orderly manner at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 497

An act to amend Sections 24071 and 24075 of the Business and Professions Code, to amend Sections 765, 859, 955, 955.1, 986, 1861, 1861a, 3152, 3193, 4701, 4800, 4801.6, 4810, 5102, 5121, and 5125 of, to add Sections 954.5, 1861.25, 4383, 4384, and 4385 to, and to repeal Title 5 (commencing with Section 1237) of Part 4 of Division 2 of, and Sections 3057 and 3058 of, the Civil Code, to amend Sections 85, 86, 117, 117.7, 117.9, 117.19, 166, 339, 431.70, 514.050, 564, 568.5, 585.5, 667, 674, 725a, 726, 745, 746, 874.140, 916, 918, 1027, 1034, 1034.5, 1095, 1161a, 1162a, 1166a, 1174, 1206, 1208, 1710.30, 1710.45, and 1800 of, to amend the heading of Title 11 (commencing with Section 875) of Part 2 of, to amend and renumber the heading of Title 11b (commencing with Section 1800) of Part 3 of, to add Sections 673, 729.010, 729.020, 729.030, 729.040, 729.050, 729.060, 729.070, 729.080, 729.090, 918.5, and 1801 to, to add a heading immediately preceding Section 875 of, to add Chapter 2 (commencing with Section 881) to Title 11 of Part 2 of, and to repeal Sections 674.5, 674.7, 675, 675b, 675c, 729, 1007, 1032.6, and 1033.7 of, the Code of Civil Procedure, to amend Sections 9301, 9304, 9306, 9409, and 9504 of the Commercial Code, to amend Sections 15025 and 24002 of the Corporations Code, to amend Section 22005 of the Education Code, to amend Sections 864, 1875, 3105, 7609.5, 11209, 14864 and 17410 of the Financial Code, to amend Sections 965.5, 970.1, 1587, 6103.2, 7170, 7173, 9359.3, 16211.5, 21201, 26664, 26725, 26726, 26728, 26733, 26738, 26741, 26744, 26750, 26820.4, 26828, 27248, 27249, 31452, 31913, 32210, 66499.6, 69503.1, and 72055 of, and to repeal Section 26606 of, the Government Code, to amend Sections 7925 and 8561 of, and to repeal Sections 33124, 34142, and 34217 of, the Health and Safety Code, to amend Section 10498.5 of, and to repeal Sections 10213 and 11045 of, the Insurance Code, to amend Sections 101, 270.5, 270.6, 300, 404, and 3862 of the Labor Code, to amend Sections 597e, 987.8, 1214, 1306, 1397, and 1448 of, and to

repeal Section 1206 of, the Penal Code, to amend Sections 205, 660, 663, 704.2, 704.4, 954, 3002, 3012, 3023, 3054, 3055, 3056, 3071, 3073, 3088 as added by Chapter 9 of the Statutes of 1981, 3100, 3101, 3121, 3122, and 3144 of, and the heading of Part 6 (commencing with Section 3000) of Division 4 of, and to repeal Sections 732.5, 734, 3010, 3021, 3022, 3052, and 3053 of, the Probate Code, to amend Sections 12337, 25337, 28896, 50146, 95836, and 98196 of the Public Utilities Code, to amend Section 32373 of the Revenue and Taxation Code, to amend Sections 5422, 8832, and 9356 of, and to repeal Section 6617 of, the Streets and Highways Code, to amend Sections 988 and 1342 of, and to repeal Section 1788 of, the Unemployment Insurance Code, to repeal Sections 8537 and 22142 of the Water Code, and to amend Sections 908, 929, 11002, 11477, 14115.5, and 17409 of the Welfare and Institutions Code, relating to judgments.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Section 24071 of the Business and Professions Code is amended to read:

24071. The license of one spouse may be transferred to the other spouse when the application for transfer is made prior to the entry of a final decree of divorce, and the license of a decedent, minor ward, incompetent person, conservatee, bankrupt person, person for whose estate a receiver is appointed, or assignor for the benefit of creditors may be transferred by or to the surviving partners of a deceased licensee, the executor, administrator, conservator or guardian of an estate of a licensee, the surviving spouse of a deceased licensee in the event that the deceased licensee leaves no estate to be administered, the trustee of a bankrupt estate of a licensee, a receiver of the estate of a licensee, or an assignee for the benefit of creditors of a licensee with the consent of the assignor, or a license may be transferred by or to a receiver appointed for a judgment debtor as provided by Section 708.630 of the Code of Civil Procedure, or a license may be transferred between partners where no new partner is being licensed, or a license may be transferred between corporations whose outstanding shares of stock are owned by the same natural persons, or a licensee may transfer upon compliance with Section 24073 any license to a corporation whose entire stock is owned by the licensee, or his spouse, or a license may be transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation, and the fee for transfer of each license is fifty dollars ($50). The regular transfer fee provided in Section 24072 shall be due and payable upon the subsequent transfer of 25 percent of the stock in a corporation to which a license has been transferred by a licensee or his spouse pursuant to this section, except if such transfer of stock is from a parent to his child or grandchild,

in which case the fee shall be one-half of the regular transfer fee. In no case shall a fee be charged for the transfer of an importer's license. All money collected from the fees provided for in this section shall be deposited directly in the General Fund in the State Treasury, rather than in the Alcohol Beverage Control Fund as provided in Section 25761.

SEC. 1.5. Section 24075 of the Business and Professions Code is amended to read:

24075. The provisions of Sections 24073 and 24074 do not apply to any transfer of a license made by an executor, administrator, guardian, conservator, trustee, receiver, except a receiver appointed under the provisions of Section 708.630 of the Code of Civil Procedure, or other person acting in the legal or proper discharge of official duty, or in the discharge of any trust imposed upon the person by law, nor to any transfer or assignment made for the benefit of creditors, nor to a surviving spouse or fiduciary or other person within the meaning of Section 24071.

SEC. 2. Section 765 of the Civil Code is amended to read:

765. Estates of inheritance and for life are called estates of freehold; estates for years are chattels real; and estates at will are chattel interests, but are not subject to enforcement of a money judgment.

SEC. 3. Section 859 of the Civil Code is amended to read:

859. Where a trust is created to receive the rents and profits of real or personal property, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that may be necessary for the education and support of the person for whose benefit the trust is created, may be applied to the satisfaction of a money judgment against the person as provided in Section 709.010 of the Code of Civil Procedure.

SEC. 4. Section 954.5 is added to the Civil Code, to read:

954.5. (a) Subject to subdivisions (b) and (c), a transfer of a right represented by a judgment excluded from coverage of Division 9 of the Commercial Code by subdivision (h) of Section 9104 of the Commercial Code shall be deemed perfected as against third persons upon there being executed and delivered to the transferee an assignment thereof in writing.

(b) As between bona fide assignees of the same right for value without notice, the assignee who first becomes an assignee of record, by filing an acknowledgment of assignment of judgment with the court as provided in Section 673 of the Code of Civil Procedure or otherwise becoming an assignee of record, has priority.

(c) The filing of an acknowledgment of assignment of the judgment with the court under Section 673 of the Code of Civil Procedure is not, of itself, notice to the judgment debtor so as to invalidate any payments made by the judgment debtor that would otherwise be applied to the satisfaction of the judgment.

SEC. 5. Section 955 of the Civil Code is amended to read:

955. A transfer other than one intended to create a security

interest (Section 9102(1)(a) of the Commercial Code) of a nonnegotiable instrument which is otherwise negotiable within Division 3 of the Commercial Code but which is not payable to order or to bearer and a sale of accounts or chattel paper as part of a sale of the business out of which they arose (Section 9104(f) of the Commercial Code) shall be deemed perfected against third persons when such property rights have been endorsed or assigned in writing and in the case of such instruments or chattel paper delivered to the transferee, whether or not notice of such transfer or sale has been given to the obligor; but such endorsement, assignment, or delivery is not, of itself, notice to the obligor so as to invalidate any payments made by the obligor to the transferor.

SEC. 6. Section 955.1 of the Civil Code is amended to read:

955.1. (a) Except as provided in Sections 954.5 and 955 and subject to subdivisions (b) and (c), a transfer other than one intended to create a security interest (Section 9102(1)(a) of the Commercial Code) of any general intangible (Section 9106 of the Commercial Code) consisting of any right to payment and any transfer of accounts or chattel paper excluded from the coverage of Division 9 of the Commercial Code by Section 9104(f) thereof shall be deemed perfected as against third persons upon there being executed and delivered to the transferee an assignment thereof in writing.

(b) As between bona fide assignees of the same right for value without notice, the assignee first giving notice thereof to the obligor in writing has priority.

(c) Such an assignment is not, of itself, notice to the obligor so as to invalidate any payments made by the obligor to the transferor.

SEC. 7. Section 986 of the Civil Code is amended to read:

986. (a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or the seller's agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale is not transferable and may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale.

(1) When a work of art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be tranferred to the Arts Council.

(3) If a seller or the seller's agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the operating fund of the council as reimbursement to fund programs of the council.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from enforcement of a money judgment by the creditors of the seller or agent.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars ($1,000).

(3) To a resale after the death of such artist.

(4) To the resale of the work of fine art for a gross sales price less than the purchase price paid by the seller.

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or more works of fine art where the fair market value of the property exchanged is less than one thousand dollars ($1,000).

(6) To any sale of a work of fine art under the provisions of Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 8. Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code is repealed.

SEC. 9. Section 1861 of the Civil Code is amended to read:

1861. Hotel, motel, inn, boardinghouse, and lodginghouse keepers shall have a lien upon the baggage and other property belonging to or legally under the control of their guests, boarders, tenants, or lodgers which may be in such hotel, motel, inn, or boarding or lodging house for the proper charges due from such

guests, boarders, tenants, or lodgers, for their accommodation, board and lodging and room rent, and such extras as are furnished at their request, and for all money paid for or advanced to such guests, boarders, tenants, or lodgers, and for the costs of enforcing such lien. The lien may be enforced only after final judgment in an action brought to recover such charges or moneys. During the pendency of the proceeding, the plaintiff may take possession of the baggage and property pursuant to a writ of possession as provided by Sections 1861.1 to 1861.27, inclusive. However, if any baggage or property becoming subject to the lien herein provided for does not belong to the guest, lodger, tenant, or boarder who incurred the charges or indebtedness secured thereby, at the time when such charges or indebtedness was incurred, and if the hotel, motel, inn, boarding or lodging house keeper entitled to such lien receives notice of such fact at any time before the sale of such baggage or property hereunder, then, and in that event, such baggage and property which is subject to said lien and did not belong to said guest, boarder, tenant, or lodger at the time when such charges or indebtedness was incurred shall not be subject to this lien.

Any property which is exempt from enforcement of a money judgment is not subject to the lien provided for in this section.

SEC. 10. Section 1861a of the Civil Code is amended to read:

1861a. Keepers of furnished and unfurnished apartment houses, apartments, cottages, or bungalow courts shall have a lien upon the baggage and other property of value belonging to their tenants or guests, and upon all the right, title and interest of their tenants or guests in and to all property in the possession of such tenants or guests which may be in such apartment house, apartment, cottage, or bungalow court, for the proper charges due from such tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing such lien.

Such lien may be enforced only after final judgment in an action brought to recover such charges or moneys. During the pendency of the proceeding, the plaintiff may take possession of such baggage and property upon an order issued by the court, where it appears to the satisfaction of the court from an affidavit filed by or on behalf of the plaintiff that the baggage or property is about to be destroyed, substantially devalued, or removed from the premises. Ten days written notice of the hearing on the motion for such order shall be served on the defendant and shall inform the defendant that the defendant may file affidavits on the defendant's behalf and present testimony in the defendant's behalf and that if the defendant fails to appear the plaintiff will apply to the court for such order. The plaintiff shall file an undertaking with good and sufficient sureties, to be approved by the court, in such sum as may be fixed by the court.

Upon such order, the plaintiff shall have the right to enter peaceably the unfurnished apartment house, apartment, cottage, or bungalow court used by the guest or tenant without liability to the

guest or tenant, including any possible claim of liability for conversion, trespass, or forcible entry. The plaintiff shall have the same duties and liabilities as a depository for hire as to property which the plaintiff takes into possession. An entry shall be considered peaceable when accomplished with a key or passkey or through an unlocked door during the hours between sunrise and sunset. Unless the judgment shall be paid within 30 days from the date when it becomes final, the plaintiff may sell the baggage and property, at public auction to the highest bidder, after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of such sale, pursuant to Section 6064 of the Government Code in the county in which said apartment house, apartment, cottage, or bungalow court is situated, and after by mailing, at least 15 days prior to the date of sale, a copy of such notice addressed to such tenant or guest at the residence or other known address of the tenant or guest, and if not known, such notice shall be addressed to the tenant or guest at the place where such apartment house, apartment, cottage, or bungalow court is situated; and, after satisfying such lien out of the proceeds of such sale, together with any reasonable costs, that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall, upon demand made within six months after such sale, be paid to such tenant or guest; and if not demanded within six months from the date of such sale, said residue, if any, shall be paid into the treasury of the county in which such sale took place; and if the same be not claimed by the owner thereof, or the owner's legal representative within one year thereafter, it shall be paid into the general fund of the county; and such sale shall be a perpetual bar to any action against said keeper for the recovery of such baggage or property, or of the value thereof, or for any damages, growing out of the failure of such tenant or guest to receive such baggage or property.

When the baggage and property are not in the possession of the keeper as provided herein, such lien shall be enforced only in the manner provided for enforcement of a money judgment.

Any property which is exempt from enforcement of a money judgment is not subject to the lien provided for in this section.

SEC. 10.5. Section 1861.25 is added to the Civil Code, to read:

1861.25. Where the property taken is claimed by a third person, the rules and proceedings applicable in cases of third-party claims under Division 4 (commencing with Section 720.010) of Title 9 of Part 2 of the Code of Civil Procedure apply.

SEC. 11. Section 3057 of the Civil Code is repealed.

SEC. 12. Section 3058 of the Civil Code is repealed.

SEC. 13. Section 3152 of the Civil Code is amended to read:

3152. Nothing contained in this title affects the right of a claimant to maintain a personal action to recover a debt against the person liable therefor either in a separate action or in the action to foreclose the lien, nor any right the claimant may have to the issuance of a writ

of attachment or execution or to enforce a judgment by other means. In an application for a writ of attachment, the claimant shall refer to this section. A lien held by the claimant under this chapter does not affect the right to procure a writ of attachment. The judgment, if any, obtained by the claimant in a personal action, or personal judgment obtained in a mechanic's lien action, does not impair or merge a lien held by the claimant under this chapter, but any money collected on the judgment shall be credited on the amount of the lien.

SEC. 14. Section 3193 of the Civil Code is amended to read:

3193. No assignment by the original contractor of any of the money due or to become due to the original contractor under the contract, or for "extras" in connection therewith whether made before or after the service of a stop notice, takes priority over a stop notice under this chapter and such assignment has no effect on the rights of the stop notice claimants. Any garnishment of such money by any creditor of the original contractor pursuant to Article 8 (commencing with Section 708.710) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure and any statutory lien thereon are subordinate to the rights of all stop notice claimants.

SEC. 15. Section 4383 is added to the Civil Code, to read:

4383. (a) Notwithstanding Section 4380, a judgment, order, or decree for the payment of child or spousal support may be enforced by a writ of execution without prior court approval for amounts that are not more than 10 years overdue on the date of the application for the writ.

(b) The application for a writ of execution shall be accompanied by an affidavit stating the total amount due and unpaid that is not more than 10 years overdue on the date of the application. If interest on the overdue installments is sought, the affidavit shall state the total amount of the interest and the amount of each due and unpaid installment and the date it became due. The affidavit shall be filed in the action and a copy shall be attached to the writ of execution delivered to the levying officer. The levying officer shall serve the copy of the affidavit on the judgment debtor when the writ of execution is first served on the judgment debtor pursuant to a levy under the writ.

SEC. 16. Section 4384 is added to the Civil Code, to read:

4384. The lack of diligence for more than 10 years in seeking enforcement of a judgment, order, or decree of the court made, entered, or enforceable pursuant to this part that requires the payment of money shall be considered by the court in determining whether to permit enforcement of the judgment, order or decree under Section 4380. In the case of a judgment, order, or decree for the payment of money in installments, the 10-year period runs as to each installment from the date the installment became due.

SEC. 16.5. Section 4385 is added to the Civil Code, to read:

4385. A judgment, order, or decree for child or spousal support made, entered, or enforceable in this state is enforceable under this chapter whether or not the judgment, order, or decree was made or

entered pursuant to this part.

SEC. 17. Section 4701 of the Civil Code is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the final decree of dissolution or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay

support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice

of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid such arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 12 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall continue for 18 months.

Upon petition by the parent ordered to pay support the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of such employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting parent or the identity of his employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting

parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child suppport obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, such entity shall comply with any request for a return of employee contributions by an employee named in such order by delivering such contributions to the clerk of the court from which such order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of such fact to the parties, and any agency through whom payments have been ordered under Section 4702. Such moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

SEC. 18. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its interlocutory judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties equally. For purposes of making such division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the

community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by such party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its final judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) Educational loans shall be assigned to the spouse receiving the education in the absence of extraordinary circumstances rendering such an assignment unjust.

(c) Notwithstanding the provisions of subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of such damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages, if the cause of action for such damages arose during the marriage but is not separate property as defined in Section 5126, unless such money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 19. Section 4801.6 of the Civil Code is amended to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make such payment of spousal support to assign to the county clerk or other officer of the court or county officer designated by the court to receive such payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the

amount ordered by the court for spousal support. Such order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make such payment of spousal support upon whom a copy of such order is served. The Judicial Council shall prescribe forms for such orders. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to such order. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701. The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the spousal support obligation.

(b) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party upon both a petition by the person to whom support has been ordered to have been paid and a finding by the court that the party so ordered to pay spousal support is in arrears in payment in a sum equal to the amount of two months of such payments within the 24-month period immediately preceding submission of such petition, the court shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive such payment, that portion of the salary or wages of the party required to make such payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make such payment of spousal support upon whom a copy of such order is served. The Judicial Council shall prescribe forms for such orders. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and such county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after such changes. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address,

the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

For purposes of this subdivision, arrearages in payment shall be computed on the basis of the payments owed and unpaid on the date that the defaulting party has been given notice personally, and not by mail pursuant to Sections 1010 and 1011 of the Code of Civil Procedure of the application for the order of assignment, and the fact that the defaulting party may have subsequently paid such arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

Upon a petition by the defaulting party, the court shall terminate such order of assignment entered pursuant to this subdivision if (1) there has been 18 continuous and uninterrupted months of full payment under the wage assignment or (2) the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom spousal support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) No employer shall use any assignment authorized by this section as grounds for the dismissal of such employee.

(d) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(e) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(f) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(g) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing

with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(h) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, such entity shall comply with any request for a return of employee contributions by an employee named in such order by delivering such contributions to the clerk of the court from which such order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of such fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. Such moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

SEC. 20. Section 4810 of the Civil Code is amended to read:

4810. The disposition of the community and quasi-community property, as above provided, is subject to revision on appeal in all particulars, including those which are stated to be in the discretion of the court.

SEC. 21. Section 5102 of the Civil Code is amended to read:

5102. (a) Except as otherwise provided in this section, neither husband nor wife has any interest in the separate property of the other, but neither can be excluded from the other's dwelling except as provided in Section 4359 or, in proceedings under Chapter 1 (commencing with Section 4400) or Chapter 2 (commencing with Section 4425) of Title 2 of this part, or under Chapter 1 (commencing with Section 4500) of Title 3 of this part, upon application of either party in the manner provided by Section 527 of the Code of Civil Procedure, the court may order the temporary exclusion of either party from the family dwelling or from the dwelling of the other upon a showing that the party to be excluded has assaulted or threatens to assault the other party, and that physical or emotional harm would otherwise result to the other party or any other person under the care, custody, or control of the other party, until the final determination of the proceeding.

(b) If notice of the pendency of a proceeding for separation or annulment or dissolution of marriage is recorded in any county in which the husband or wife resides on real property that is the separate property of the other, the real property shall not for a period

of three months thereafter be transferred, encumbered, or otherwise disposed of voluntarily or involuntarily without the joinder of both spouses, unless the court otherwise orders.

SEC. 22. Section 5121 of the Civil Code is amended to read:

5121. (a) The separate property of a spouse is liable for the debts of the spouse contracted before or after the marriage of the spouse, but is not liable for the debts of the other spouse contracted after marriage; provided, that the separate property of the spouse is liable for the payment of debts contracted by either spouse for the necessaries of life pursuant to Section 5132.

(b) The separate property of a spouse is not subject to enforcement of a money judgment for a debt of the other spouse unless the spouse is made a judgment debtor under the judgment for the purpose of liability.

SEC. 23. Section 5125 of the Civil Code is amended to read:

5125. (a) Except as provided in subdivisions (b), (c), and (d) and Sections 5113.5 and 5128, either spouse has the management and control of the community personal property, whether acquired prior to or on or after January 1, 1975, with like absolute power of disposition, other than testamentary, as the spouse has of the separate estate of the spouse.

(b) A spouse may not make a gift of community personal property, or dispose of community personal property without a valuable consideration, without the written consent of the other spouse.

(c) A spouse may not sell, convey, or encumber community personal property used as the family dwelling, or the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse or minor children which is community personal property, without the written consent of the other spouse.

(d) A spouse who is operating or managing a business or an interest in a business which is community personal property has the sole management and control of the business or interest.

(e) Each spouse shall act in good faith with respect to the other spouse in the management and control of the community property.

SEC. 24. Section 85 of the Code of Civil Procedure is amended to read:

85. If the judgment or order in a municipal court or justice court in any action or proceeding in which the defendant has appeared is for the payment of money by the defendant, the defendant shall pay the same immediately or at any time and upon such terms and conditions, including installment payments, which the court may prescribe. The court may amend the terms and conditions for payment of the judgment or order at any time to provide for installment payments for good cause upon motion by a party and notice to all affected parties, regardless of the nature of the underlying debt and regardless whether the moving party appeared before entry of such judgment or order. In any determination regarding the imposition of terms and conditions upon the payment

of the judgment, the court shall consider any factors which would be relevant to the determination of a claim for exemption pursuant to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 or the examination of a debtor pursuant to Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2.

SEC. 25. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also

affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 26. Section 117 of the Code of Civil Procedure is amended to read:

117. (a) The hearing and disposition of small claims actions shall be informal, the object being to dispense justice promptly between the parties. The parties shall have the right to offer evidence by

witnesses at the hearing or, with the permission of the court, at another time. The judge may consult witnesses informally and otherwise investigate the controversy. If the defendant fails to appear, the judge shall still require plaintiff to present evidence to prove his claim. The judge shall give judgment and make such orders as to time of payment or otherwise as the judge deems to be just and equitable for disposition of the controversy. The provisions of Section 579 of this code may be applied.

(b) The prevailing party in any action in the small claims court is entitled to costs of the action and also the costs of enforcing the judgment rendered therein. Such costs shall include costs of service of the order for the appearance of the defendant.

SEC. 27. Section 117.7 of the Code of Civil Procedure is amended to read:

117.7. No attachment may issue from the small claims division. The judgment may be enforced in the manner provided in Title 9 (commencing with Section 680.010) of Part 2 and in Section 1174. However, enforcement of the judgment is automatically stayed, without the filing of a bond by the defendant, until the expiration of time for appeal and, if an appeal is taken, until the appeal is determined.

SEC. 28. Section 117.9 of the Code of Civil Procedure is amended to read:

117.9. If the judgment or order be against the defendant or cross defendant, he or she shall pay the same forthwith or at any time and upon such terms and conditions as the judge shall prescribe. Immediately upon receipt of payment of the judgment, the judgment creditor or the assignee of record shall file with the court an acknowledgment of satisfaction of judgment. Any judgment creditor or assignee of record who, after payment in full of the judgment, and after written demand by the judgment debtor fails without just cause for a period of 15 days to execute, and file an acknowledgment of satisfaction of judgment with the court is liable to the judgment debtor or his or her grantees or heirs for all damages sustained by reason of such failure and, in addition, the sum of fifty dollars ($50).

A canceled check or money order which was written subsequent to the judgment by the judgment debtor for the full amount of the judgment, made payable to and endorsed by the judgment creditor, or a cash receipt written subsequent to the judgment for the full amount thereof and signed by the judgment creditor, shall constitute a rebuttable presumption of satisfaction of judgment when filed with the clerk of the small claims court together with a statement signed by the judgment debtor under penalty of perjury stating that: (1) the judgment creditor has been paid in full the amount of the judgment and costs; (2) the judgment creditor has been requested to file an acknowledgment of satisfaction of judgment and refuses to do so or the present address of the judgment creditor is unknown; and (3) the documents attached constitute evidence of receipt of

this payment. In the event a rebuttable presumption of satisfaction of judgment is created pursuant to this section, a satisfaction of judgment shall be entered.

SEC. 29. Section 117.19 of the Code of Civil Procedure is amended to read:

117.19. (a) Whenever a claim is filed under this chapter against a person operating or doing business under a fictitious business name, as defined in Section 17900 of the Business and Professions Code, which relates to the person's business, the judge shall inquire at the time of the hearing whether the name of the person is the legal name under which the business or person has been licensed, registered, incorporated, or otherwise authorized to do business. If the legal name of the person is other than the name specified on the claim, the judge shall order the plaintiff's claim to be amended to conform to the legal name of the business. The plaintiff may request the court at any time, including after judgment, to amend the claim of the plaintiff or the judgment to conform to the legal name of the person against whom the claim was filed.

(b) At the time judgment is rendered, or notice thereof is mailed to the parties, the clerk shall provide the judgment debtor with a form containing questions regarding the nature and location of any assets of the judgment debtor. The judgment debtor shall complete the form and cause it to be delivered to the judgment creditor within 35 days after the clerk has mailed by first-class mail notice of entry of judgment unless the judgment has been satisfied. In the event a motion to vacate the judgment or an appeal is filed, a judgment debtor shall complete and deliver the form within 30 days after entry of judgment on the motion or on the appeal. In case of willful failure by the judgment debtor to comply with this subdivision, the judgment creditor may request the court to apply the sanctions provided in Section 708.170. The Judicial Council shall approve or adopt the form to be used for the purpose of this subdivision.

SEC. 30. Section 166 of the Code of Civil Procedure is amended to read:

166. (a) The judge or judges of the superior, municipal and justice courts may, at chambers, in the matters within the jurisdiction of their respective courts:

(1) Grant all orders and writs which are usually granted in the first instance upon an ex parte application, and may, at chambers, hear and dispose of such orders and writs; and may also, at chambers, appoint appraisers, receive inventories and accounts to be filed, suspend the powers of executors, administrators, guardians, or conservators in the cases allowed by law, grant special letters of administration and letters of temporary guardianship or conservatorship, approve claims and bonds, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

(2) Hear and determine all motions made pursuant to Section 657 or 663.

(3) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

(4) Hear and determine motions to tax costs of enforcing a judgment.

(b) A judge may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or which a judge may exercise or perform at chambers.

SEC. 31. Section 339 of the Code of Civil Procedure is amended to read:

339. Within two years: 1. An action upon a contract, obligation or liability not founded upon an instrument of writing, except as provided in Section 2725 of the Commercial Code or subdivision 2 of Section 337 of this code; or an action founded upon a contract, obligation or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in an official capacity and in virtue of office, or by the omission of an official duty including the nonpayment of money collected in the enforcement of a judgment.

3. An action based upon the rescission of a contract not in writing. The time begins to run from the date upon which the facts that entitle the aggrieved party to rescind occurred. Where the ground for rescission is fraud or mistake, the time does not begin to run until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

SEC. 32. Section 431.70 of the Code of Civil Procedure is amended to read:

431.70. Where cross-demands for money have existed between persons at any point in time when neither demand was barred by the statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in the answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting the person's claim would at the time of filing the answer be barred by the statute of limitations. If the cross-demand would otherwise be barred by the statute of limitations, the relief accorded under this section shall not exceed the value of the relief granted to the other party. The defense provided by this section is not available if the cross-demand is barred for failure to assert it in a prior action

under Section 426.30. Neither person can be deprived of the benefits of this section by the assignment or death of the other. For the purposes of this section, a money judgment is a "demand for money" and, as applied to a money judgment, the demand is barred by the statute of limitations when enforcement of the judgment is barred under Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9.

SEC. 33. Section 514.050 of the Code of Civil Procedure is amended to read:

514.050. Where the property taken is claimed by a third person, the rules and proceedings applicable in cases of third-party claims under Division 4 (commencing with Section 720.010) of Title 9 apply.

SEC. 34. Section 564 of the Code of Civil Procedure is amended to read:

564. A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which such court is empowered by law to appoint a receiver.

In superior courts a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to the creditor's claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.

2. In an action by a mortgagee for the foreclosure of the mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt.

3. After judgment, to carry the judgment into effect.

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or pursuant to Title 9 (commencing with Section 680.010) (enforcement of judgments), or after sale of real property pursuant to a decree of foreclosure, during the redemption period, to collect, expend, and disburse rents as directed by the court or otherwise provided by law.

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

6. In an action of unlawful detainer.

7. At the request of the Public Utilities Commission pursuant to Section 855 of the Public Utilities Code.

8. In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

SEC. 35. Section 568.5 of the Code of Civil Procedure is amended to read:

568.5. A receiver may, pursuant to an order of the court, sell real or personal property in the receiver's possession upon the notice and in the manner prescribed by Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9. The sale is not final until confirmed by the court.

SEC. 36. Section 585.5 of the Code of Civil Procedure is amended to read:

585.5. (a) Every application to enter default under subdivision 1 of Section 585 shall include or be accompanied by an affidavit stating facts showing that the action is or is not subject to the provisions of Section 1812.10 or 2984.4 of the Civil Code or subdivision (b) of Section 395 of the Code of Civil Procedure.

(b) When a default or default judgment has been entered without full compliance with Section 1812.10 or 2984.4 of the Civil Code, or subdivision (b) of Section 395 of the Code of Civil Procedure, the defendant may serve and file a notice of motion to set aside such default or default judgment and for leave to defend the action in the proper court. Such notice of motion shall be served and filed within 60 days after the defendant first receives notice of levy under a writ of execution, or notice of any other procedure for enforcing, the default judgment.

(c) A notice of motion to set aside a default or default judgment and for leave to defend the action in the proper court shall designate as the time for making the motion a date not less than 10 nor more than 20 days after filing of such motion, and it shall be accompanied by an affidavit showing under oath that the action was not commenced in the proper court according to the provisions of Section 1812.10 or 2984.4 of the Civil Code or subdivision (b) of Section 395 of the Code of Civil Procedure. The party shall serve and file with such notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

(d) Upon a finding by the court that the motion was made within the period permitted by subdivision (b) and that the action was not commenced in the proper court, it shall set aside the default or default judgment on such terms as may be just and shall allow such a party to defend the action in the proper court.

(e) Unless the plaintiff can show that the plaintiff used reasonable diligence to avoid filing the action in the improper court, upon a finding that the action was commenced in the improper court the court shall award the defendant actual damages and costs, including reasonable attorney's fees.

SEC. 37. Section 667 of the Code of Civil Procedure is amended to read:

667. In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession or the value

thereof, in case a delivery cannot be had, and damages for the detention. If the property has been delivered to the plaintiff, and the defendant claim a return thereof judgment for the defendant may be for a return of the property or the value thereof, in case a return cannot be had, and damages for taking and withholding the same.

SEC. 38. Section 673 is added to the Code of Civil Procedure, to read:

673. (a) An assignee of a right represented by a judgment may become an assignee of record by filing with the clerk of the court which entered the judgment an acknowledgment of assignment of judgment.

(b) An acknowledgment of assignment of judgment shall contain all of the following:

(1) The title of the court where the judgment is entered and the cause and number of the action.

(2) The date of entry of the judgment and of any renewals of the judgment and where entered in the records of the court.

(3) The name and address of the judgment creditor and name and last known address of the judgment debtor.

(4) A statement describing the right represented by the judgment that is assigned to the assignee.

(5) The name and address of the assignee.

(c) The acknowledgment of assignment of judgment shall be:

(1) Made in the manner of an acknowledgment of a conveyance of real property.

(2) Executed and acknowledged by the judgment creditor or by the prior assignee of record if there is one.

(d) This section is in addition to, and does not limit or restrict, any other means by which an assignee may become an assignee of record.

SEC. 39. Section 674 of the Code of Civil Procedure is amended to read:

674. An abstract of a judgment or decree requiring the payment of money shall be certified by the clerk of the court where the judgment or decree was entered and shall contain all of the following:

(a) The title of the court where the judgment or decree is entered and cause and number of the action.

(b) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.

(c) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.

(d) The name and address of the judgment creditor.

(e) The amount of the judgment or decree as entered or as last renewed.

(f) The social security number and driver's license number of the judgment debtor if they are known to the judgment creditor; and,

if either or both of such numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(g) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.

(h) The date of issuance of the abstract.

SEC. 40. Section 674.5 of the Code of Civil Procedure is repealed.

SEC. 41. Section 674.7 of the Code of Civil Procedure is repealed.

SEC. 42. Section 675 of the Code of Civil Procedure is repealed.

SEC. 43. Section 675b of the Code of Civil Procedure is repealed.

SEC. 44. Section 675c of the Code of Civil Procedure is repealed.

SEC. 45. Section 725a of the Code of Civil Procedure is amended to read:

725a. The beneficiary or trustee named in a deed of trust or mortgagee named in a mortgage with power of sale upon real property or any interest therein to secure a debt or other obligation, or if there be a successor or successors in interest of such beneficiary, trustee or mortgagee, then such successor or successors in interest, shall have the right to bring suit to foreclose the same in the manner and subject to the provisions, rights and remedies relating to the foreclosure of a mortgage upon such property.

SEC. 46. Section 726 of the Code of Civil Procedure is amended to read:

726. (a) There can be but one form of action for the recovery of any debt or the enforcement of any right secured by mortgage upon real property, which action must be in accordance with the provisions of this chapter. In such action the court may, by its judgment, direct the sale of the encumbered property (or so much thereof as may be necessary), and the application of the proceeds of the sale to the payment of the costs of court, the expenses of levy and sale, and the amount due plaintiff, including, where the mortgage provides for the payment of attorney's fees, such sum for such fees as the court shall find reasonable, not exceeding the amount named in the mortgage.

(b) The decree for the foreclosure of a mortgage or deed of trust secured by real property or any interest therein shall declare the amount of the indebtedness or right so secured and, unless judgment for any deficiency there may be between the sale price and the amount due with costs is waived by the judgment creditor or a deficiency judgment is prohibited by Section 580b, shall determine the personal liability of any defendant for the payment of the debt secured by such mortgage or deed of trust and shall name such defendants against whom a deficiency judgment may be ordered following the proceedings hereinafter prescribed. In the event of such waiver, or if the prohibition of Section 580b is applicable the decree shall so declare and there shall be no judgment for a deficiency. In the event that a deficiency is not waived or prohibited and it is decreed that any defendant is personally liable for such debt, then upon application of the plaintiff filed at any time within three months of the date of the foreclosure sale and after a hearing thereon

at which the court shall take evidence and at which hearing either party may present evidence as to the fair value of the property or the interest therein sold as of the date of sale, the court shall render a money judgment against such defendant or defendants for the amount by which the amount of the indebtedness with interest and costs of levy and sale and of action exceeds the fair value of the property or interest therein sold as of the date of sale; provided, however, that in no event shall the amount of the judgment, exclusive of interest from the date of sale and of costs exceed the difference between the amount for which the property was sold and the entire amount of the indebtedness secured by the mortgage or deed of trust. Notice of the hearing shall be served upon all defendants who have appeared in the action and against whom a deficiency judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing. Upon application of any party made at least 10 days before the date set for the hearing the court shall, and upon its own motion the court at any time may, appoint one of the inheritance tax referees provided for by law to appraise the property or the interest therein sold as of the time of sale. The inheritance tax referee shall file the appraisal with the clerk and the appraisal is admissible in evidence. The inheritance tax referee shall take and subscribe an oath to be attached to the appraisal that he or she has truly, honestly and impartially appraised the property to the best of his or her knowledge and ability. Any inheritance tax referee so appointed may be called and examined as a witness by any party or by the court itself. The court must fix the compensation, in an amount as determined by the court to be reasonable, but such fees shall not exceed similar fees for similar services in the community where such services are rendered, which may be taxed and allowed in like manner as other costs.

(c) No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the person holding such unrecorded conveyance or lien as if the person had been a party to the action. Notwithstanding Section 701.630, the sale of the encumbered property does not affect the interest of a person who holds a conveyance from or under the mortgagor of the property mortgaged, or has a lien thereon, if the conveyance or lien appears of record in the proper office at the time of the commencement of the action and the person holding the recorded conveyance or lien is not made a party to the action.

(d) If the land mortgaged consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, the court may, in its judgment, direct the whole thereof to be sold in one of such counties, and upon such proceedings, and with like effect, as if the whole of the property were situated in that county.

(e) If a deficiency judgment is waived or prohibited, the property shall be sold as provided in Section 716.020. If a deficiency judgment is not waived or prohibited, the property shall be sold subject to the right of redemption as provided in Sections 729.010 to 729.090, inclusive.

SEC. 47. Section 729 of the Code of Civil Procedure is repealed.

SEC. 48. Section 729.010 is added to the Code of Civil Procedure, to read:

729.010. (a) If the decree of foreclosure of a mortgage or deed of trust on real property pursuant to Section 726 determines that a deficiency judgment may be ordered against the defendant, the real property (other than a leasehold estate with an unexpired term of less than two years at the time of levy) shall be sold subject to the right of redemption.

(b) If the property is to be sold subject to the right of redemption, the sale is governed by Section 716.020, except that:

(1) The notice of sale of the property shall state that the property will be sold subject to the right of redemption and shall state the amount of the secured indebtedness with interest and costs.

(2) Notice of sale may be given upon entry of the judgment for sale of the property and the provision of Section 701.545 delaying notice of sale does not apply.

(3) Notice of sale may be given to persons having liens on the property upon entry of the judgment for sale of the property and the provision of subdivision (h) of Section 701.540 delaying such notice does not apply.

SEC. 49. Section 729.020 is added to the Code of Civil Procedure, to read:

729.020. Property sold subject to the right of redemption may be redeemed only by the judgment debtor or the judgment debtor's successor in interest. For the purpose of this article, the purchaser of the property at the foreclosure sale is not a successor in interest.

SEC. 50. Section 729.030 is added to the Code of Civil Procedure, to read:

729.030. The redemption period during which property may be redeemed from a foreclosure sale under this chapter ends:

(a) Three months after the date of sale if the proceeds of the sale are sufficient to satisfy the secured indebtedness with interest and costs of action and of sale.

(b) One year after the date of sale if the proceeds of the sale are not sufficient to satisfy the secured indebtedness with interest and costs of action and of sale.

SEC. 51. Section 729.040 is added to the Code of Civil Procedure, to read:

729.040. (a) Notwithstanding Section 701.660, when the purchaser of an interest in real property sold subject to the right of redemption pays the amount due, the levying officer conducting the sale shall execute and deliver a certificate of sale to the purchaser and record a duplicate of the certificate of sale in the office of the county

recorder.

(b) The certificate of sale shall contain the information required by Section 701.670 and shall also contain the following:

(1) The price paid for each distinct lot or parcel of real property sold subject to the right of redemption.

(2) The total price paid.

(3) A statement that the property is subject to the right of redemption, indicating the applicable redemption period.

SEC. 52. Section 729.050 is added to the Code of Civil Procedure, to read:

729.050. If property is sold subject to the right of redemption, promptly after the sale the levying officer who conducted the sale shall serve notice of the right of redemption on the judgment debtor. Service shall be made personally or by mail. The notice of the right of redemption shall indicate the applicable redemption period.

SEC. 53. Section 729.060 is added to the Code of Civil Procedure, to read:

729.060. (a) A person who seeks to redeem the property shall deposit the redemption price with the levying officer who conducted the sale before the expiration of the redemption period. If a successor in interest to the judgment debtor seeks to redeem the property, the successor in interest shall, at the time the redemption price is deposited, file with the levying officer either (1) a certified copy of a recorded conveyance or (2) a copy of an assignment or any other evidence of the interest verified by an affidavit of the successor in interest or of a subscribing witness thereto.

(b) The redemption price is the total of the following amounts, less any offset allowed under subdivision (c).

(1) The purchase price at the sale.

(2) The amount of any assessments or taxes and reasonable amounts for fire insurance, maintenance, upkeep, and repair of improvements on the property.

(3) Any amount paid by the purchaser on a prior obligation secured by the property to the extent that the payment was necessary for the protection of the purchaser's interest.

(4) Interest on the amounts described in paragraphs (1), (2), and (3) at the rate of interest on money judgments from the time such amount was paid until the date the deposit is made.

(c) Rents and profits from the property paid to the purchaser or the value of the use and occupation of the property to the purchaser may be offset against the amounts described in subdivision (b).

SEC. 54. Section 729.070 is added to the Code of Civil Procedure, to read:

729.070. (a) If the purchaser and the person seeking to redeem the property disagree on the redemption price or as to whether the person is entitled to redeem the property, or if the purchaser refuses the tender of the redemption price pursuant to Section 729.080, the person seeking to redeem may file a petition with the court for an order determining the redemption price or whether the person is

entitled to redeem the property. The petition shall be filed before the expiration of the redemption period. At the time the petition is filed, the petitioner shall deposit the undisputed amount of the redemption price with the levying officer, if deposit has not previously been made, and give written notice to the levying officer of the filing of the petition.

(b) The petition shall be in writing and shall include the following statements:

(1) The amounts demanded to which the person seeking to redeem objects and the reasons for the objection.

(2) Any amounts offset to which the purchaser objects and the justification for such offset.

(3) The status of the petitioner that qualifies the petitioner to redeem the property. A copy of the papers required by subdivision (a) of Section 729.060 shall be filed with the petition.

(c) The hearing on the petition shall be held not later than 20 days after the date the petition was filed unless continued by the court for good cause.

(d) Not less than 10 days before the hearing, the person seeking to redeem the property shall personally serve on the purchaser a copy of the petition together with a notice of the time and place of the hearing.

(e) At the hearing on the petition, the person seeking to redeem the property has the burden of proof.

(f) At the conclusion of the hearing, the court shall determine by order the amount required to redeem the property. The determination shall be made upon affidavit or evidence satisfactory to the court.

(g) If an amount in addition to that deposited with the levying officer is required to redeem the property, the person seeking to redeem shall, within 10 days after the issuance of the order, pay such additional amount to the levying officer.

SEC. 55. Section 729.080 is added to the Code of Civil Procedure, to read:

729.080. (a) If the redemption price is not deposited pursuant to Section 729.060 before the expiration of the redemption period, or if no additional deposit is made pursuant to subdivision (g) of Section 729.070 before the expiration of the time therein provided, the levying officer who conducted the sale shall promptly execute and deliver to the purchaser a deed of sale that complies with the requirements of Section 701.670.

(b) If the person seeking to redeem the property deposits the redemption price pursuant to Section 729.060 or 729.070 during the redemption period, the levying officer shall tender the deposit to the purchaser. If the purchaser accepts the tender or if the redemption price determined by court order is tendered, the levying officer shall promptly execute and deliver a certificate of redemption to the person seeking to redeem and shall immediately thereafter record a duplicate of the certificate in the office of the recorder of the

county where the property is located.

(c) Tender of the redemption price determined by court order or agreed upon by the purchaser and the person seeking to redeem the property is equivalent to payment. If the tender is refused, the levying officer shall deposit the amount tendered with the county treasurer of the county where the property is located, payable to the order of the purchaser. If the amount deposited is not claimed by the purchaser, or the legal representative of the purchaser, within five years after the deposit is made, by making application to the treasurer or other official designated by the county, it shall be paid into the general fund of the county.

(d) Except as provided in subdivision (e), upon redemption the effect of the sale is terminated and the person who redeemed the property is restored to the estate therein sold at the sale.

(e) Liens extinguished by the sale as provided in Section 701.630 do not reattach to the property after redemption and the property that was subject to the extinguished lien may not be applied to the satisfaction of the claim or judgment under which the lien was created.

SEC. 56. Section 729.090 is added to the Code of Civil Procedure, to read:

729.090. (a) From the time of the sale until a redemption, the purchaser is entitled to receive from the person in possession the rents and profits from the property or the value of the use and occupation of the property.

(b) Notwithstanding subdivision (a), the purchaser is liable to the person who redeems for any rents or profits that have been received by the purchaser pursuant to subdivision (a).

(c) The purchaser, from the time of sale until redemption, is entitled to enter the property during reasonable hours to repair and maintain the premises and is entitled to an order restraining waste on the property from the court. Such order may be granted with or without notice in the discretion of the court.

SEC. 57. Section 745 of the Code of Civil Procedure is amended to read:

745. The court may, by injunction, on good cause shown, restrain the party in possession from doing any act to the injury of real property:

(a) During the foreclosure of a mortgage on the property.

(b) After levy on the property and before the possession of the property is transferred pursuant to sale under the levy.

SEC. 58. Section 746 of the Code of Civil Procedure is amended to read:

746. When real property has been sold pursuant to a levy, the purchaser of the property, or any person who has succeeded to the interest of the purchaser, may recover damages from the person causing the injury for injury to the property after levy and before possession is delivered to the purchaser or the person who has succeeded to the interest of the purchaser.

SEC. 60. Section 874.140 of the Code of Civil Procedure is amended to read:

874.140. A judgment for unpaid costs of partition may be enforced by the person entitled to the costs in the manner provided for enforcement of money judgments generally against the share of the party specified in the judgment or against other property of the party.

SEC. 61. The heading of Title 11 (commencing with Section 875) of Part 2 of the Code of Civil Procedure is amended to read:

TITLE 11. CONTRIBUTION AMONG JOINT JUDGMENT DEBTORS

SEC. 62. A heading is added immediately preceding Section 875 of the Code of Civil Procedure, to read:

CHAPTER 1. RELEASES FROM AND CONTRIBUTION AMONG JOINT TORTFEASORS

SEC. 63. Chapter 2 (commencing with Section 881) is added to Title 11 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 2. CONTRIBUTION AMONG OTHER JUDGMENT DEBTORS

881. This chapter governs contribution among joint judgment debtors other than joint tortfeasors.

882. If two or more judgment debtors are jointly liable on a money judgment:

(a) A judgment debtor who has satisfied more than his or her due proportion of the judgment, whether voluntarily or through enforcement procedures, may compel contribution from another judgment debtor who has satisfied less than his or her due proportion of the judgment.

(b) If the judgment is based upon an obligation of one judgment debtor as surety for another and the surety satisfies the judgment or any part thereof, whether voluntarily or through enforcement procedures, the surety may compel repayment from the principal.

883. (a) A judgment debtor entitled to compel contribution or repayment pursuant to this chapter may apply on noticed motion to the court that entered the judgment for an order determining liability for contribution or repayment. The application shall be made at any time before the judgment is satisfied in full or within 10 days thereafter.

(b) The order determining liability for contribution or repayment entitles the judgment debtor to the benefit of the judgment to enforce the liability, including every remedy that the judgment creditor has against the persons liable, to the extent of the liability.

(c) Nothing in this section limits any other remedy that a

judgment debtor entitled to contribution or repayment may have.

SEC. 64. Section 916 of the Code of Civil Procedure is amended to read:

916. (a) Except as provided in Sections 917.1 through 917.9 and in Section 117.7, the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.

(b) When there is a stay of proceedings other than the enforcement of the judgment, the trial court shall have jurisdiction of proceedings related to the enforcement of the judgment as well as any other matter embraced in the action and not affected by the judgment or order appealed from.

SEC. 65. Section 918 of the Code of Civil Procedure is amended to read:

918. (a) Subject to subdivision (b), the trial court may stay the enforcement of any judgment or order.

(b) If the enforcement of the judgment or order would be stayed on appeal only by the giving of an undertaking, a trial court shall not have power, without the consent of the adverse party, to stay the enforcement thereof pursuant to this section for a period which extends for more than 10 days beyond the last date on which a notice of appeal could be filed.

(c) This section applies whether or not an appeal will be taken from the judgment or order and whether or not a notice of appeal has been filed.

SEC. 66. Section 918.5 is added to the Code of Civil Procedure, to read:

918.5. (a) The trial court may, in its discretion, stay the enforcement of a judgment or order if the judgment debtor has another action pending on a disputed claim against the judgment creditor.

(b) In exercising its discretion under this section, the court shall consider all of the following:

(1) The likelihood of the judgment debtor prevailing in the other action.

(2) The amount of the judgment of the judgment creditor as compared to the amount of the probable recovery of the judgment debtor in the action on the disputed claim.

(3) The financial ability of the judgment creditor to satisfy the judgment if a judgment is rendered against the judgment creditor in the action on the disputed claim.

SEC. 67. Section 1007 of the Code of Civil Procedure is repealed.

SEC. 68. Section 1027 of the Code of Civil Procedure is amended to read:

1027. When the decision of a court of inferior jurisdiction in a special proceeding is brought before a court of higher jurisdiction for

a review, in any other way than by appeal, the same costs must be allowed as in cases on appeal, and may be collected in the manner provided for enforcement of money judgments generally, or in such manner as the court may direct, according to the nature of the case.

SEC. 69. Section 1032.6 of the Code of Civil Procedure is repealed.

SEC. 70. Section 1033.7 of the Code of Civil Procedure is repealed.

SEC. 71. Section 1034 of the Code of Civil Procedure is amended to read:

1034. In appeals from the superior and municipal courts, costs shall be awarded as provided in rules adopted by the Judicial Council. In appeals from other courts, the prevailing party on appeal shall be entitled to his costs excepting when judgment is modified and in that event the matter of costs is within the discretion of the appellate court. The party entitled to costs, or to whom costs are awarded, may recover all amounts actually paid out by the party in connection with the appeal, and the preparation of the record for the appeal. The appellate court may reduce costs in case of the insertion of unnecessary matter in the record.

Whenever costs are awarded to a party by an appellate court, if the party claims such costs, the party must, within 30 days after the remittitur is filed with the clerk below, serve upon the adverse party and file with such clerk a memorandum of costs, verified as prescribed by Section 1033. The party dissatisfied with the costs claimed may move to have the same taxed in the same manner and within a like time after service of a copy of the bill of costs, as prescribed by Section 1033. After the costs have been taxed, or the time for taxing the costs has expired, the award of costs may be enforced in the manner provided for enforcement of a money judgment.

SEC. 72. Section 1034.5 of the Code of Civil Procedure is amended to read:

1034.5. In unlawful detainer proceedings, the plaintiff who recovers judgment for possession of premises, and who advances or pays to the sheriff or marshal the costs required for the eviction of any persons in possession or occupancy of the premises and the personal property of such persons, shall, within 10 days after being advised by the sheriff or marshal of the exact amount necessarily used and expended to effect the eviction, file a supplemental costs bill in the court in which the judgment was rendered claiming such additional costs and specify the items paid and the amount thereof. The defendant may move to retax such costs within 10 days after service of the supplemental cost bill. When costs are fixed by the court, or upon failure of the defendant to file notice of motion to retax costs within 10 days after service of the supplemental cost bill, judgment for the costs shall be immediately entered by the clerk and may be enforced in the manner provided for enforcement of a money judgment.

SEC. 73. Section 1095 of the Code of Civil Procedure is amended to read:

1095. If judgment be given for the applicant, the applicant may recover the damages which the applicant has sustained, as found by the jury, or as may be determined by the court or referee, upon a reference to be ordered, together with costs; and a peremptory mandate must also be awarded without delay. Damages and costs may be enforced in the manner provided for money judgments generally. In all cases where the respondent is an officer of a public entity, all damages and costs, or either, which may be recovered or awarded, shall be recovered and awarded against the public entity represented by the officer, and not against the officer so appearing in the proceeding, and are a proper claim against the public entity for which the officer appeared and shall be paid as other claims against the public entity are paid; but in all such cases, the court shall first determine that the officer appeared and made defense in the proceeding in good faith. For the purpose of this section, "public entity" includes the state, a county, city, district or other public agency or public corporation. For the purpose of this section, "officer" includes officer, agent or employee.

SEC. 74. Section 1161a of the Code of Civil Procedure is amended to read:

1161a. In any of the following cases, a person who holds over and continues in possession of real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:

1. Where the property has been sold pursuant to a writ of execution against such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

2. Where the property has been sold pursuant to a writ of sale, upon the foreclosure by proceedings taken as prescribed in this code of a mortgage, or under an express power of sale contained therein, executed by such person, or a person under whom such person claims, and the title under the foreclosure has been duly perfected.

3. Where the property has been sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

4. Where the property has been sold by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

SEC. 75. Section 1162a of the Code of Civil Procedure is amended to read:

1162a. In any case in which service or exhibition of a receiver's or levying officer's deed is required, in lieu thereof service of a copy or copies of the deed may be made as provided in Section 1162.

SEC. 75.5. Section 1166a of the Code of Civil Procedure is

amended to read:

1166a. (a) Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession of real property issued by the court and directed to the sheriff of the county, or constable or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons.

(b) Written notice of the hearing on the motion shall be served on the defendant by the plaintiff in accordance with the provisions of Section 1011, and shall inform the defendant as follows: "You may file affidavits on your own behalf with the court and may appear and present testimony on your own behalf. However, if you fail to appear, the plaintiff will apply to the court for a writ of possession of real property."

(c) The plaintiff shall file an undertaking with good and sufficient sureties, to be approved by the judge, in such sum as shall be fixed and determined by the judge, to the effect that, if the plaintiff fails to recover judgment against the defendant for the possession of the premises or if the suit is dismissed, the plaintiff will pay to the defendant such damages, not to exceed the amount fixed in the undertaking, as may be sustained by the defendant by reason of such dispossession under the writ of possession of real property. An action to recover such damages shall be commenced by the defendant in a court of competent jurisdiction within one year from the date of entry of dismissal or of final judgment in favor of the defendant.

(d) If, at the hearing on the motion, the findings of the court be in favor of the plaintiff and against the defendant, an order shall be entered for the immediate possession of the premises.

(e) The order for the immediate possession of the premises may be enforced as provided in Division 3 (commencing with Section 712.010) of Title 9 of Part 2.

(f) For the purposes of this section, references in Division 3 (commencing with Section 712.010) of Title 9 of Part 2 and in subdivisions (e) to (m), inclusive, of Section 1174, to the "judgment debtor" shall be deemed references to the defendant, to the "judgment creditor" shall be deemed references to the plaintiff, and to the "judgment of possession or sale of property" shall be deemed references to an order for the immediate possession of the premises.

SEC. 76. Section 1174 of the Code of Civil Procedure is amended to read:

1174. (a) If upon the trial, the verdict of the jury, or, if the case be tried without a jury, the findings of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the possession of the premises; and if the proceedings be for an unlawful detainer after neglect, or failure to perform the conditions or

covenants of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of such lease or agreement if the notice required by Section 1161 states the election of the landlord to declare the forfeiture thereof, but if such notice does not so state such election, the lease or agreement shall not be forfeited.

Except as provided in Section 1166a, in any action for unlawful detainer brought by a petroleum distributor against a gasoline dealer, possession shall not be restored to the petroleum distributor unless the court in the unlawful detainer action determines that the petroleum distributor had good cause under Section 20999.1 of the Business and Professions Code to terminate, cancel, or refuse to renew the franchise of the gasoline dealer.

In any action for unlawful detainer brought by a petroleum distributor against the gasoline dealer, the court may, at the time of request of either party, require the tenant to make rental payments into the court, for the lessor, at the contract rate, pending the resolution of the action.

(b) The jury or the court, if the proceedings be tried without a jury, shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent. If the defendant is found guilty of forcible entry, or forcible or unlawful detainer, and malice is shown, the plaintiff may be awarded either damages and rent found due or punitive damages in an amount which does not exceed three times the amount of damages and rent found due. The trier of fact shall determine whether damages and rent found due or punitive damages shall be awarded, and judgment shall be entered accordingly.

(c) When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, and the notice required by Section 1161 has not stated the election of the landlord to declare the forfeiture thereof, the court may, and, if the lease or agreement is in writing, is for a term of more than one year, and does not contain a forfeiture clause, shall order that a writ shall not be issued to enforce the judgment until the expiration of five days after the entry of the judgment, within which time the tenant, or any subtenant, or any mortgagee of the term, or any other party interested in its continuance, may pay into the court, for the landlord, the amount found due as rent, with interest thereon, and the amount of the damages found by the jury or the court for the unlawful detainer, and the costs of the proceedings, and thereupon the judgment shall be satisfied and the tenant be restored to the tenant's estate. If payment as provided in this subdivision is not made within five days, the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately.

(d) Subject to subdivision (c), the judgment for possession of the premises may be enforced as provided in Division 3 (commencing with Section 712.010) of Title 9 of Part 2.

(e) Personal property remaining on the premises which the landlord reasonably believes to have been lost shall be disposed of pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code. The landlord is not liable to the owner of any property which is disposed of in this manner. If the appropriate police or sheriff's department refuses to accept such property, it shall be deemed not to have been lost for the purposes of this subdivision.

(f) The landlord shall give notice pursuant to Section 1983 of the Civil Code to any person (other than the tenant) reasonably believed by the landlord to be the owner of personal property remaining on the premises.

(g) The landlord shall store the personal property in a place of safekeeping until it is either released pursuant to subdivision (h) or disposed of pursuant to subdivision (i).

(h) The landlord shall release the personal property to the tenant or, at the landlord's option, to a person reasonably believed by the landlord to be its owner if such tenant or other person pays the costs of storage as provided in Section 1990 of the Civil Code and claims the property not later than the date specified in the writ of possession before which the tenant must make his claim or the date specified in the notice before which a person other than the tenant must make his claim.

(i) Personal property not released pursuant to subdivision (h) shall be disposed of pursuant to Section 1988 of the Civil Code.

(j) Where the landlord releases personal property to the tenant pursuant to subdivision (h), the landlord is not liable with respect to that property to any person.

(k) Where the landlord releases personal property pursuant to subdivision (h) to a person (other than the tenant) reasonably believed by the landlord to be its owner, the landlord is not liable with respect to that property to:

(1) The tenant or to any person to whom notice was given pursuant to subdivision (f); or

(2) Any other person, unless such person proves that, prior to releasing the property, the landlord believed or reasonably should have believed that such person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of such person.

(*l*) Where personal property is disposed of pursuant to Section 1988 of the Civil Code, the landlord is not liable with respect to that property to:

(1) The tenant or to any person to whom notice was given pursuant to subdivision (f); or

(2) Any other person, unless such person proves that, prior to disposing of the property pursuant to Section 1988 of the Civil Code,

the landlord believed or reasonably should have believed that such person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of such person.

(m) For the purposes of subdivisions (e), (f), (h), (k), and (*l*), the terms "owner," "premises," and "reasonable belief" have the same meaning as provided in Section 1980 of the Civil Code.

SEC. 77. Section 1206 of the Code of Civil Procedure is amended to read:

1206. Upon the levy under a writ of attachment or execution not founded upon a claim for labor, any miner, mechanic, salesman, servant, clerk, laborer or other person who has performed work or rendered personal services for the defendant within 90 days prior to the levy may file a verified statement of the claim therefor with the officer executing the writ, file a copy thereof with the court which issued the writ, and give copies thereof, containing his or her address, to the plaintiff and the defendant, or any attorney, clerk or agent representing them, or mail copies to them by registered mail at their last known address, return of which by the post office undelivered shall be deemed a sufficient service if no better address is available, and such claim, not exceeding nine hundred dollars ($900), unless disputed, must be paid by such officer, immediately upon the expiration of the time for dispute of the claim as prescribed in Section 1207, from the proceeds of such levy remaining in the officer's hands at the time of the filing of such statement or collectible by the officer on the basis of the writ.

The court issuing the writ must make a notation on its docket of every preferred labor claim of which it receives a copy and must endorse on any writ of execution or abstract of judgment issued subsequently in the case that it is issued subject to the rights of a preferred labor claimant or claimants thereunder and giving the names and amounts of all such preferred labor claims of which it has notice. In levying under any writ of execution the officer making the levy shall include in the amount due under the execution any and all preferred labor claims that have been filed in the action and of which the officer has notice, except any claims which may have been finally disallowed by the court under the procedure provided for herein and of which disallowance the officer has actual notice. The amount due on preferred labor claims that have not been finally disallowed by the court shall be considered a part of the sum due under any writ of attachment or execution in augmentation of the amount thereof and it shall be the duty of any person, firm, association or corporation on whom a writ of attachment or execution is levied to immediately pay to the levying officer the amount of such preferred labor claims, out of any money belonging to the defendant in the action, before paying the principal sum called for in the writ.

If any claim is disputed within the time, and in the manner prescribed in Section 1207, and a copy of the dispute is mailed by registered mail to the claimant or the claimant's attorney at the

address given in the statement of claim and the registry receipt is attached to the original of the dispute when it is filed with the levying officer, or is handed to the claimant or the claimant's attorney, the claimant, or the claimant's assignee, must within 10 days after such copy is deposited in the mail or is handed to the claimant or the claimant's attorney petition the court having jurisdiction of the action on which the writ is based, for a hearing before it to determine the claim for priority, or the claim to priority is barred. If more than one attachment or execution is involved, the petition shall be filed in the court having jurisdiction over the senior attachment or execution. The hearing shall be held within 20 days from the filing of the petition unless the court continues it for good cause. Ten days' notice of the hearing shall be given by the petitioner to the plaintiff and the defendant, and to all parties claiming an interest in the property, or their attorneys. The notice may be informal and need specify merely the name of the court, names of the principal parties to the senior attachment or execution and name of the wage claimant or claimants on whose behalf it is filed but shall specify that the hearing is for the purpose of determining the claim for priority. The plaintiff or the defendant, or any other party claiming an interest may contest the amount or validity of the claim in spite of any confession of judgment or failure to appear or to contest the claim on the part of any other person.

There shall be no cost for filing or hearing the petition and the hearing on the petition shall be informal but all parties testifying must be sworn. Any claimant may appear on the claimant's own behalf at the hearing and may call and examine witnesses to substantiate his or her claim. An appeal may be taken from a judgment in a proceeding under this section in the manner provided for appeals from judgments of the court where the proceeding is had.

The officer shall retain in possession until the determination of the claim for priority so much of the proceeds of the writ as may be necessary to satisfy the claim, and if the claim for priority is allowed, the officer shall pay the amount due, including the claimant's cost of suit, from such proceeds, immediately after the order allowing the claim becomes final.

SEC. 78. Section 1208 of the Code of Civil Procedure is amended to read:

1208. If the claims presented under Section 1206 and not disputed, or, if disputed, established by judgment, exceed the proceeds of the writ not disposed of before their presentation, such proceeds shall be distributed among the claimants in proportion to the amount of their respective claims after the costs incurred by the senior attaching plaintiff or judgment creditor in such action have first been taken care of.

If sufficient money to pay in full all preferred labor claims filed under an attachment or execution does not become available immediately upon the expiration of the time for dispute of such claims under Section 1207, any of the claimants, or their assignees,

have the right to proceed directly against the money or other property levied on in individual or joint actions by themselves or their assignees against the defendant, and the attachment or execution under which the preferred claims were filed shall be considered set aside as far as such claimants, or their assignees, are concerned so as to enable them, or any of them, or any of their assignees, to proceed directly against any or all of the money or other property in question by means of their own attachments or executions; provided, however, that any money collected on behalf of any such labor claimant, or his or her assignee, on the basis of such new attachment or execution shall be shared in by the other preferred labor claimants who have filed claims that have not been disputed, or, if disputed, established by judgment, in proportion to the amount of their respective claims, deducting only the costs in the action brought by the said labor claimant, or his or her assignee, and the costs in the original action brought by the senior attaching plaintiff or judgment creditor.

If such senior attaching plaintiff or judgment creditor requests a release of his or her original attachment or execution, and the preferred labor claims filed under same are not released, the officer who levied the writ must first mail notices of such request to release to each of the labor claimants who have filed claims, or their attorneys, which notices must specify that unless the claimants bring attachment actions of their own and levy on the money or property in question within five days from the date thereof the money or property will be released from the attachment or execution; provided, however, that such officer may instead collect sufficient money on the basis of the original writ to pay off the preferred labor claims in full and then release the attachment or execution, but in no case shall the officer release the attachment or execution without first taking care of the labor claims until the five-day period has expired, unless the officer's costs, keepers' fees or storage charges have not been immediately taken care of by some of the parties involved. In any case it shall be lawful for a garnishee to pay over to the officer levying the writ any money held by the garnishee without waiting for execution to be levied and the officer's receipt for the money shall be a sufficient quittance, and the officer shall collect such money and immediately pay off the established preferred labor claims in all cases where it is possible to do so without additional court proceedings on the officer's part.

SEC. 79. Section 1710.30 of the Code of Civil Procedure is amended to read:

1710.30. (a) Notice of entry of judgment shall be served promptly by the judgment creditor upon the judgment debtor in the manner provided for service of summons by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Notice shall be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 30 days within which to make a motion to vacate the judgment.

(b) The fee for service of the notice of entry of judgment under this section is an item of costs recoverable in the same manner as statutory fees for service of a writ as provided in Chapter 5 (commencing with Section 685.010) of Division 1 of Title 9 of Part 2, but such fee may not exceed the amount allowed to a public officer or employee in this state for such service.

SEC. 80. Section 1710.45 of the Code of Civil Procedure is amended to read:

1710.45. (a) Except as otherwise provided in this section, a writ of execution on a judgment entered pursuant to this chapter shall not issue, nor may the judgment be enforced by other means, until at least 30 days after the judgment creditor serves notice of entry of the judgment upon the judgment debtor, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2.

(b) A writ of execution may be issued, or other enforcement sought, before service of the notice of entry of judgment if the judgment debtor is any of the following:

(1) An individual who does not reside in this state.

(2) A foreign corporation not qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(3) A foreign partnership which has not filed a statement pursuant to Section 15700 of the Corporations Code designating an agent for service of process.

(c) The court may order that a writ of execution be issued, or may permit enforcement by other means, before service of the notice of entry of judgment if the court finds upon an ex parte showing that great or irreparable injury would result to the judgment creditor if issuance of the writ or enforcement were delayed as provided in subdivision (a).

(d) Property levied upon pursuant to a writ issued under subdivision (b) or (c) or otherwise sought to be applied to the satisfaction of the judgment shall not be sold or distributed before 30 days after the judgment creditor serves notice of entry of the judgment upon the judgment debtor, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2. However, if property levied upon is perishable, it may be sold in order to prevent its destruction or loss of value, but the proceeds of the sale shall not be distributed to the judgment creditor before the date sale of nonperishable property is permissible.

SEC. 81. The heading of Title 11b (commencing with Section 1800) of Part 3 of the Code of Civil Procedure is amended and renumbered to read:

TITLE 11.7. RECOVERY OF PREFERENCES AND EXEMPT PROPERTY IN AN ASSIGNMENT FOR THE BENEFIT OF CREDITORS

SEC. 81.5. Section 1800 of the Code of Civil Procedure, as amended by Chapter 35 of the Statutes of 1982, is amended to read:

1800. (a) In this section:

(1) The term "insolvent" means:

(A) With reference to a person other than a partnership, a financial condition such that the sum of such person's debts is greater than all of such person's property, at a fair valuation, exclusive of:

(i) Property transferred, concealed, or removed with intent to hinder, delay, or defraud such person's creditors; and

(ii) Property that is exempt from property of the estate pursuant to the election of such person made pursuant to Section 1801; and

(B) With reference to a partnership, financial condition such that the sum of such partnership's debts are greater than the aggregate of, at a fair valuation—

(i) All of such partnership's property, exclusive of property of the kind specified in subparagraph (A) (i); and

(ii) The sum of the excess of the value of each general partner's separate property, exclusive of property of the kind specified in subparagraph (A) (ii), over such partner's separate debts.

(2) The term "inventory" means personal property leased or furnished, held for sale or lease, or to be furnished under a contract for service, raw materials, work in process, or materials used or consumed in a business, including farm products such as crops or livestock, held for sale or lease.

(3) The term "insider" means:

(A) If the assignor is an individual, any of the following:

(i) A relative of the assignor or of a general partner of the assignor.

(ii) A partnership in which the assignor is a general partner.

(iii) A general partner of the assignor.

(iv) A corporation of which the assignor is a director, officer, or person in control.

(B) If the assignor is a corporation, any of the following:

(i) A director of the assignor.

(ii) An officer of the assignor.

(iii) A person in control of the assignor.

(iv) A partnership in which the assignor is a general partner.

(v) A general partner of the assignor.

(vi) A relative of a general partner, director, officer, or person in control of the assignor.

(C) If the assignor is a partnership, any of the following:

(i) A general partner in the assignor.

(ii) A relative of a general partner in, general partner of, or person in control of the assignor.

(iii) A partnership in which the assignor is a general partner.

(iv) A general partner of the assignor.

(v) A person in control of the assignor.

(D) An affiliate of the assignor or an insider of an affiliate as if such affiliate were the assignor.

(E) A managing agent of the assignor.

As used in this paragraph, "relative" means an individual related by affinity or consanguinity with the third degree as determined by the common law, or an individual in a step or adoptive relationship within such third degree; and an "affiliate" means a person that directly or indirectly owns, controls or holds with power to vote 20 percent or more of the outstanding voting securities of the assignor or 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the assignor (excluding securities held in a fiduciary or agency capacity without sole discretionary power to vote, or held solely to secure a debt if the holder has not in fact exercised the power to vote), or a person who operates the business of the assignor under a lease or operating agreement or whose business is operated by the assignor under a lease or operating agreement.

(4) The term "judicial lien" means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

(5) The term "new value" means money or money's worth in goods, services, or new credit, or release by a transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the assignor or the assignee under any applicable law, but does not include an obligation substituted for an existing obligation.

(6) The term "receivable" means a right to payment, whether or not such right has been earned by performance.

(7) The term "security agreement" means an agreement that creates or provides for a security interest.

(8) The term "security interest" means a lien created by an agreement.

(9) The term "statutory lien" means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

(10) The term "transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, or disposing of or parting with property or with an interest in property, including retention of title as a security interest.

(b) Except as provided in subdivision (c), the assignee of any general assignment for the benefit of creditors (as defined in Section 493.010) may recover any transfer of property of the assignor:

(1) To or for the benefit of a creditor;

(2) For or on account of an antecedent debt owed by the assignor before such transfer was made;

(3) Made while the assignor was insolvent;

(4) Made on or within 90 days before the date of the making of the assignment or made between 90 days and one year before the date of making the assignment if the creditor, at the time of the transfer, was an insider and had reasonable cause to believe the debtor was insolvent at the time of the transfer; and

(5) That enables such creditor to receive more than another creditor of the same class.

(c) The assignee may not recover under this section a transfer:

(1) To the extent that such transfer was:

(A) Intended by the assignor and the creditor to or for whose benefit such transfer was made to be a contemporaneous exchange for new value given to the assignor; and

(B) In fact a substantially contemporaneous exchange;

(2) To the extent that such transfer was:

(A) In payment of a debt incurred in the ordinary course of business or financial affairs of the assignor and the transferee;

(B) Made not later than 45 days after such debt was incurred;

(C) Made in the ordinary course of business or financial affairs of the assignor and the transferee; and

(D) Made according to ordinary business terms;

(3) Of a security interest in property acquired by the assignor:

(A) To the extent such security interest secures new value that was:

(i) Given at or after the signing of a security agreement that contains a description of such property as collateral;

(ii) Given by or on behalf of the secured party under such agreement;

(iii) Given to enable the assignor to acquire such property; and

(iv) In fact used by the assignor to acquire such property; and

(B) That is perfected within 10 days after such security interest attaches;

(4) To or for the benefit of a creditor, to the extent that, after such transfer, such creditor gave new value to or for the benefit of the assignor:

(A) Not secured by an otherwise unavoidable security interest; and

(B) On account of which new value the assignor did not make an otherwise unavoidable transfer to or for the benefit of such creditor;

(5) Of a perfected security interest in inventory or a receivable or the proceeds of either, except to the extent that the aggregate of all such transfers to the transferee caused a reduction, as of the date of the making of the assignment and to the prejudice of other creditors holding unsecured claims, of any amount by which the debt secured by such security interest exceeded the value of all security interest for such debt on the later of:

(A) Ninety days before the date of the making of the assignment; and

(B) The date on which new value was first given under the security agreement creating such security interest; or

(6) That is the fixing of a statutory lien.

(d) An assignee of any general assignment for the benefit of creditors (as defined in Section 493.010), may avoid a transfer of property of the assignor transferred to secure reimbursement of a surety that furnished a bond or other obligation to dissolve a judicial lien that would have been avoidable by the assignee under subdivision (b) of this section. The liability of such surety under such bond or obligation shall be discharged to the extent of the value of such property recovered by the assignee or the amount paid to the assignee.

(e) (1) For the purposes of this section:

(A) A transfer of real property other than fixtures, but including the interest of a seller or purchaser under a contract for the sale of real property, is perfected when a bona fide purchaser of such property from the debtor against whom applicable law permits such transfer to be perfected cannot acquire an interest that is superior to the interest of the transferee; and

(B) A transfer of a fixture or property other than real property is perfected when a creditor on a simple contract cannot acquire a judicial lien that is superior to the interest of the transferee.

(2) For the purposes of this section, except as provided in paragraph (3), a transfer is made:

(A) At the time such transfer takes effect between the transferor and the transferee, if such transfer is perfected at, or within 10 days after, such time;

(B) At the time such transfer is perfected, if such transfer is perfected after such 10 days; or

(C) Immediately before the date of the making of the assignment if such transfer is not perfected at the later of:

(i) The making of the assignment; and

(ii) Ten days after such transfer takes effect between the transferor and the transferee.

(3) For the purposes of this section, a transfer is not made until the assignor has acquired rights in the property transferred.

(f) For the purposes of this section, the assignor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the making of the assignment.

(g) An action by an assignee under this section must be commenced within one year after the making of the assignment.

SEC. 82. Section 1801 is added to the Code of Civil Procedure, to read:

1801. In any general assignment for the benefit of creditors (as defined in Section 493.010), the assignor, if an individual, may choose to retain as exempt property either the property which is otherwise exempt under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 or, in the alternative, the following property:

(a) The assignor's aggregate interest, not to exceed seven thousand five hundred dollars ($7,500) in value, in real property or

personal property that the assignor or a dependent of the assignor uses as a residence, in a cooperative that owns property that the assignor or a dependent of the assignor uses as a residence, or in a burial plot for the assignor or a dependent of the assignor.

(b) The assignor's interest, not to exceed one thousand two hundred dollars ($1,200) in value, in one motor vehicle.

(c) The assignor's interest, not to exceed two hundred dollars ($200) in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the assignor or a dependent of the assignor.

(d) The assignor's aggregate interest, not to exceed five hundred dollars ($500) in value, in jewelry held primarily for the personal, family, or household use of the assignor or a dependent of the assignor.

(e) The assignor's aggregate interest, not to exceed in value four hundred dollars ($400) plus any unused amount of the exemption provided under subdivision (a), in any property.

(f) The assignor's aggregate interest, not to exceed seven hundred fifty dollars ($750) in value, in any implements, professional books, or tools, of the trade of the assignor or the trade of a dependent of the assignor.

(g) Any unmatured life insurance contract owned by the assignor, other than a credit life insurance contract.

(h) The assignor's aggregate interest, not to exceed in value four thousand dollars ($4,000) in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the assignor under which the insured is the assignor or an individual of whom the assignor is a dependent.

(i) Professionally prescribed health aids for the assignor or a dependent of the assignor.

(j) The assignor's right to receive any of the following:

(1) A social security benefit, unemployment compensation, or a local public assistance benefit.

(2) A veterans' benefit.

(3) A disability, illness, or unemployment benefit.

(4) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the assignor and any dependent of the assignor.

(5) A payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the assignor and any dependent of the assignor, unless:

(i) The plan or contract was established by or under the auspices of an employer of which the assignor was a partner, officer, director or controlling person at the time the assignor's rights under the plan or contract arose;

(ii) The payment is on account of age or length of service; and

(iii) Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

(k) The assignor's right to receive, or property that is traceable to any of the following:

(1) An award under a crime victim's reparation law.

(2) A payment on account of the wrongful death of an individual of whom the assignor was a dependent, to the extent reasonably necessary for the support of the assignor and any dependent of the assignor.

(3) A payment under a life insurance contract that insured the life of an individual of whom the assignor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the assignor and any dependent of the assignor.

(4) A payment, not to exceed seven thousand five hundred dollars ($7,500), on account of personal bodily injury, as compensation for pain and suffering or actual pecuniary loss (other than loss of future earnings), of the assignor or an individual of whom the assignor is a dependent.

(5) A payment in compensation of loss of future earnings of the assignor or an individual of whom the assignor is or was a dependent, to the extent reasonably necessary for the support of the assignor and any dependent of the assignor.

In this section, "dependent" includes spouse, whether or not actually dependent, "assignor" means each spouse, if the assignment is made by a married couple, and "value" means fair market value as of the date of the making of the assignment.

SEC. 82.5. Section 9301 of the Commercial Code is amended to read:

9301. (1) Except as otherwise provided in subdivision (2), an unperfected security interest is subordinate to the rights of:

(a) Persons entitled to priority under Section 9312.

(b) A person who becomes a lien creditor before the security interest is perfected.

(c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected.

(d) In the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within 10 days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like, or by filing a notice of judgment lien on personal property, and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within 45 days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

(5) For the purpose of subdivision (4), a secured party shall be deemed not to have knowledge of a judgment lien on personal property acquired pursuant to Section 697.510 of the Code of Civil Procedure until the time the judgment creditor serves a copy of the notice of judgment lien on the secured party personally or by mail pursuant to Chapter 4 (commencing with Section 684.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure. If service on the secured party is by mail, it shall be sent to the secured party at the address shown in the financing statement or security agreement.

SEC. 82.7. Section 9304 of the Commercial Code is amended to read:

9304. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subdivisions (4), (5), and (7) of this section and subdivisions (2) and (3) of Section 9306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subdivision (3) of Section 9312; or

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21-day period in subdivisions (4) and (5) perfection depends upon compliance with applicable provisions of this division.

(7) If an instrument claimed as proceeds (other than cash proceeds) under Section 9306 is in the custody of a levying officer, a secured party may perfect a security interest in such instrument by filing a third-party claim with the levying officer pursuant to Chapter 3 (commencing with Section 720.210) of Division 4 of Title 9 of Part 2 of the Code of Civil Procedure within the 10-day period allowed under Section 9306.

SEC. 82.8. Section 9306 of the Commercial Code is amended to read:

9306. (1) "Proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "noncash proceeds."

(2) Except where this division otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected 10 days after receipt of the proceeds by the debtor unless

(a) A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or

(b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected before the expiration of the 10-day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this division for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds

(a) In identifiable noncash proceeds and in a separate deposit account containing only proceeds;

(b) In identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings;

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings; and

(d) In all cash and deposit accounts of the debtor in which proceeds have been commingled with other funds, but the perfected security interest under this paragraph (d) is

(i) Subject to any right of setoff; and

(ii) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within 10 days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subdivision (4).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under Section 9308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or

repossessed goods.

(6) Cash proceeds retain their character as cash proceeds while in the possession of a levying officer pursuant to Title 6.5 (commencing with Section 481.010) or Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

SEC. 83. Section 9409 of the Commercial Code is amended to read:

9409. (a) Upon request of any person, the Secretary of State shall issue a combined certificate showing the information as to financing statements as specified in Section 9407 of this code, the information as to state tax liens as specified in Section 7226 of the Government Code, the information as to attachment liens as specified in Section 488.340 of the Code of Civil Procedure, the information as to judgment liens as specified in Section 697.580 of the Code of Civil Procedure, and, if the name requested appears to be other than an individual, the information as to federal liens as specified in Section 2103 of the Code of Civil Procedure. The fee for such a combined certificate is five dollars ($5).

(b) The Secretary of State shall construe a request for a certificate as one for a combined certificate pursuant to this section unless the request is specifically limited to federal liens, state tax liens, judgment liens, or attachment liens.

SEC. 83.5. Section 9504 of the Commercial Code is amended to read:

9504. (1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the division on sales (Division 2). The proceeds of disposition shall be applied in the order following to

(a) The reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) The satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed and to the satisfaction of any subordinate attachment lien or execution lien pursuant to subdivision (b) of Section 701.040 of the Code of Civil Procedure if notice of the levy of attachment or execution is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus except as provided in Section 701.040 of the Code of Civil Procedure, and, unless

otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides and the provisions of Section 701.040 of the Code of Civil Procedure relating to payment of proceeds and the liability of the secured party apply only if the security agreement provides that the debtor is entitled to any surplus.

(3) A sale or lease of collateral may be as a unit or in parcels, at wholesale or retail and at any time and place and on any terms, provided the secured party acts in good faith and in a commercially reasonable manner. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the secured party must give to the debtor, if he has not signed after default a statement renouncing or modifying his right to notification of sale, and to any other person who has a security interest in the collateral and who has filed with the secured party a written request for notice giving his address (before that secured party sends his notification to the debtor or before debtor's renunciation of his rights), a notice in writing of the time and place of any public sale or of the time on or after which any private sale or other intended disposition is to be made. Such notice must be delivered personally or be deposited in the United States mail postage prepaid addressed to the debtor at his address as set forth in the financing statement or as set forth in the security agreement or at such other address as may have been furnished to the secured party in writing for this purpose, or, if no address has been so set forth or furnished, at his last known address, and to any other secured party at the address set forth in his request for notice, at least five days before the date fixed for any public sale or before the day on or after which any private sale or other disposition is to be made. Notice of the time and place of a public sale shall also be given at least five days before the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held. Any public sale shall be held in the county or place specified in the security agreement, or if no county or place is specified in the security agreement, in the county in which the collateral or any part thereof is located or in the county in which the debtor has his residence or chief place of business, or in the county in which the secured party has his residence or a place of business if the debtor does not have a residence or chief place of business within this state. If the collateral is located outside of this state or has been removed from this state, a public sale may be held in the locality in which the collateral is located. Any public sale may be postponed from time to time by public announcement at the time and place last scheduled for the sale. The secured party may buy at any public sale and if the collateral is customarily sold in a recognized market or is the subject of widely or regularly distributed standard price quotations he may buy at private sale. Any sale of which notice is delivered or mailed

and published as herein provided and which is held as herein provided is a public sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interest even though the secured party fails to comply with the requirements of this chapter or of any judicial proceedings

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

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

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this division.

SEC. 84. Section 15025 of the Corporations Code is amended to read:

15025. (1) A partner is coowner with the other partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with the other partners to possess specific partnership property for partnership purposes; but a partner has no right to possess such property for any other purpose without the consent of the other partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to enforcement of a money judgment, except on a claim against the partnership. When partnership property is levied upon for a partnership debt, the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the exemption laws.

(d) On the death of a partner, the partner's right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when the deceased partner's right in such property vests in his or her legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin, and is not community property.

SEC. 85. Section 24002 of the Corporations Code is amended to

read:

24002. A money judgment against an unincorporated association may be enforced only against the property of the association.

SEC. 86. Section 22005 of the Education Code is amended to read:

22005. The right of a person to an annuity, a retirement salary, or a retirement allowance, to the return of contributions, the annuity, retirement salary, or retirement allowance itself, any optional benefit, any other right or benefit accrued or accruing to any person under this part, and the moneys in the fund created under this part are not subject to execution or any other process whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this part.

SEC. 87. Section 864 of the Financial Code is amended to read:

864. (a) For the purposes of this section:

(1) "Customer" means one or more natural persons.

(2) "Debt" means an interest-bearing obligation or an obligation which by its terms is payable in installments, which has not been reduced to judgment, arising from an extension of credit to a natural person primarily for personal, family, or household purposes, and does not mean a charge for bank services or a debit for uncollected funds or for an overdraft of an account imposed by a bank on a deposit account.

(b) A bank is limited in exercising any setoff for a debt claimed to be owed to the bank by a customer in that a setoff shall not result in an aggregate balance of less than one thousand dollars ($1,000) as shown on the records of the bank for all demand deposit accounts maintained by a customer with the bank or any branch thereof.

(c) Not later than the day following the exercise of any setoff with respect to a deposit account for any debt claimed to be owed to the bank by a customer, the bank shall deliver to each customer personally or send by first-class mail postage prepaid to the address of each customer as shown on the records of the bank a written notice in at least 10-point type containing the following:

(1) A statement that the bank has set off a debt or a portion thereof against the customer's deposit account, identifying the account, and giving the respective balances before and after the setoff.

(2) A statement identifying the debt set off against the account and giving the respective balances due before and after the setoff.

(3) A statement that if the customer claims that the debt has been paid or is not now owing, or that the funds in the deposit account consist of moneys expressly exempt pursuant to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, and listed in the notice, the customer may execute and return the notice to the bank by mail at the address shown or personally to the bank branch where the customer's account is maintained not later than 20 days after the date of mailing or personal delivery.

(4) A statement that if the notice is executed and returned, the bank may file an action in court to collect the debt; that if a lawsuit is filed, the customer will be notified and have an opportunity to appear and defend; and that if the bank is successful, the customer will be liable for court costs, and attorney's fees, if the debt so provides.

(5) A response form in at least 10-point type containing substantially the following:

"The debt described in the Notice of Setoff received from the bank is _____ is not _____ my debt or the debt of another person in whose name the account is maintained.

"I claim that the debt:

_____has been paid.

_____is not now owing.

_____is not subject to setoff because the money in the account is:

_____Paid earnings (CCP 704.070)

_____Proceeds from execution sale of or insurance for loss of a motor vehicle (CCP 704.010)

_____Proceeds from execution sale of household furnishings or other personal effects (CCP 704.020)

_____Relocation benefits (CCP 704.180)

_____Life insurance proceeds (CCP 704.100)

_____Disability and health insurance benefits (CCP 704.130)

_____Workers' compensation benefits (CCP 704.160)

_____Unemployment or strike benefits (CCP 704.120)

_____Retirement benefits including, but not limited to, social security benefits (CCP 704.080, 704.110, 704.115)

_____Public assistance benefits including welfare payments and supplemental security income (SSI) or charitable aid (CCP 704.170)

_____Proceeds from sale of or insurance for damage or destruction of a dwelling (CCP 704.720)

_____Proceeds from execution sale of or insurance for loss of tools of a trade (CCP 704.060)

_____Award of damages for personal injury (CCP 704.140) or wrongful death (CCP 704.150)

"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ Signed: _____ "

(Customer)

(d) If the response form described in subdivision (c) executed by the customer is received by the bank not later than 20 days after the date of mailing or personal delivery of the written notice, the amount of the setoff for any debt claimed to be owed to the bank by a customer, and any bank service charges resulting from the setoff,

shall be reversed and such amount shall be credited to the deposit account not later than the end of the business day following receipt of such executed response form.

(e) The limitations provided in this section do not apply to a deposit account, other than a demand deposit account, in which the bank has a security interest expressed by a written contract as collateral for the debt owing to the bank by the customer.

(f) The limitations provided in this section do not apply when a customer previously has authorized a bank in writing to periodically debit a deposit account as the agreed method of payment of the debt.

(g) The limitations provided in this section shall apply only to the exercise by a bank a setoff with respect to debts claimed to be owing to it by customers on or after July 1, 1976.

(h) Nothing in this section shall prejudice a person's right to assert exemptions under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, or to assert a claim or defense as to the validity of the debt, in a judicial proceeding.

SEC. 88. Section 1875 of the Financial Code is amended to read:

1875. No funds, less fees due agents, received by any agent of a licensee from the sale of travelers checks issued by such licensee, while held by such agent, nor any property impressed with a trust pursuant to Section 1874 shall be subject to enforcement of a money judgment or sequestration by order of any court, except by such licensee.

SEC. 89. Section 3105 of the Financial Code is amended to read:

3105. No attachment shall be issued against the property of any bank or trust company.

SEC. 90. Section 7609.5 of the Financial Code is amended to read:

7609.5. (a) For the purposes of this section:

(1) "Customer" means one or more natural persons.

(2) "Debt" means an interest-bearing obligation or an obligation which by its terms is payable in installments, which has not been reduced to judgment, arising from an extension of credit to a natural person primarily for personal, family, or household purposes, and does not mean a charge for savings and loan services or a debit for uncollected funds or for an overdraft account imposed by a savings and loan association on a deposit account.

(3) "Deposit account" includes investment certificate, share account and withdrawable share.

(b) A savings and loan association is limited in exercising any setoff for a debt claimed to be owed to the savings and loan association by a customer in that a setoff shall not result in an aggregate balance of less than one thousand dollars ($1,000) as shown on the records of the savings and loan association for all demand deposit accounts maintained by a customer with the savings and loan association or any branch thereof.

(c) Not later than the day following the exercise of any setoff with respect to a deposit account for any debt claimed to be owed to the

savings and loan association by a customer, the savings and loan association shall deliver to each customer personally or send by first-class mail postage prepaid to the address of each customer as shown on the records of the savings and loan association a written notice in at least 10-point type containing the following:

(1) A statement that the savings and loan association has set off a debt or a portion thereof against the customer's deposit account, identifying the account, and giving the respective balances before and after the setoff.

(2) A statement identifying the debt set off against the account and giving the respective balances due before and after the setoff.

(3) A statement that if the customer claims that the debt has been paid or is not now owing, or that the funds in the deposit account consist of moneys expressly exempt pursuant to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, and listed in the notice, the customer may execute and return the notice to the savings and loan association by mail at the address shown or personally to the savings and loan branch where the customer's account is maintained not later than 20 days after the date of mailing or personal delivery.

(4) A statement that if the notice is executed and returned, the savings and loan association may file an action in court to collect the debt; that if a lawsuit is filed, the customer will be notified and have an opportunity to appear and defend; and that if the savings and loan association is successful, the customer will be liable for court costs, and attorney's fees, if the debt so provides.

(5) A response form in at least 10-point type containing substantially the following:

"The debt described in the Notice of Setoff received from the savings and loan association is _____ is not _____ my debt or the debt of another person in whose name the account is maintained.

"I claim that the debt:

_____ has been paid.

_____ is not now owing.

_____ is not subject to setoff because the money in the account is:

_____ Paid earnings (CCP 704.070)

_____ Proceeds from execution sale of or insurance for loss of a motor vehicle (CCP 704.010)

_____ Proceeds from execution sale of household furnishings or other personal effects (CCP 704.020)

_____ Relocation benefits (CCP 704.180)

_____ Life insurance proceeds (CCP 704.100)

_____ Disability and health insurance benefits (CCP 704.130)

_____ Workers' compensation benefits (CCP 704.160)

_____ Unemployment or strike benefits (CCP 704.120)

_____ Retirement benefits including, but not limited to, social security benefits (CCP 704.080, 704.110,

704.115)
_____Public assistance benefits including welfare payments and supplemental security income (SSI) or charitable aid (CCP 704.170)
_____Proceeds from sale of or insurance for damage or destruction of a dwelling (CCP 704.720)
_____Proceeds from execution sale of or insurance for loss of tools of a trade (CCP 704.060)
_____Award of damages for personal injury (CCP 704.140) or wrongful death (CCP 704.150)

"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:_____ Signed: _____ "

(Customer)

(d) If the response form described in subdivision (c) executed by the customer is received by the savings and loan association not later than 20 days after the date of mailing or personal delivery of the written notice, the amount of the setoff for any debt claimed to be owed to the savings and loan association by a customer, and any savings and loan association service charges resulting from the setoff, shall be reversed and such amount shall be credited to the deposit account not later than the end of the business day following receipt of such executed response form.

(e) The limitations provided in this section do not apply to a deposit account in which the savings and loan association has a security interest expressed by a written contract as collateral for the debt owing to the savings and loan association by the customer.

(f) The limitations provided in this section do not apply when a customer previously has authorized a savings and loan association in writing to periodically debit a deposit account as the agreed method of payment of the debt.

(g) The limitations provided in this section shall apply only to the exercise by a savings and loan association of a setoff with respect to debts claimed to be owing to it by customers on or after July 1, 1976.

(h) Nothing in this section shall prejudice a person's right to assert exemptions under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, or to assert a claim or defense as to the validity of the debt, in a judicial proceeding.

SEC. 91. Section 11209 of the Financial Code is amended to read:

11209. No attachment shall be issued against such association or its property in any suit, action or proceeding arising out of the claim of any holder of shares or share accounts to withdraw.

SEC. 92. Section 14864 of the Financial Code is amended to read:

14864. The shares and certificates for funds received of members of any credit union and all the accumulation on such shares and certificates are exempt from enforcement of a money judgment in the amount and in the manner provided in Chapter 4 (commencing

with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

SEC. 93. Section 17410 of the Financial Code is amended to read:

17410. (a) Escrow or trust funds are not subject to enforcement of a money judgment arising out of any claim against the licensee or person acting as escrow agent, and in no instance shall such escrow or trust funds be considered or treated as an asset of the licensee or person performing the functions of an escrow agent.

(b) Interest paid or payable on funds deposited in escrow by a licensee are not subject to enforcement of a money judgment arising out of any claim against the licensee or person acting as escrow agent.

SEC. 94. Section 965.5 of the Government Code is amended to read:

965.5. (a) A judgment for the payment of money against the state or a state agency is enforceable until 10 years after the time the judgment becomes final or, if the judgment is payable in installments, until 10 years after the final installment becomes due.

(b) A judgment for the payment of money against the state or a state agency is not enforceable under Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure but is enforceable under this chapter.

SEC. 95. Section 970.1 of the Government Code is amended to read:

970.1. (a) A judgment is enforceable until 10 years after the time the judgment becomes final or, if the judgment is payable in installments, until 10 years after the final installment becomes due.

(b) A judgment, whether or not final, is not enforceable under Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure but is enforceable under this article after it becomes final.

SEC. 96. Section 1587 of the Government Code is amended to read:

1587. If separate judgments are recovered on the bonds for the same cause of action, the injured party may enforce both judgments, but may only collect, by execution or otherwise, the costs of both suits and the amount actually adjudged on the same causes of action in one of the suits.

SEC. 97. Section 6103.2 of the Government Code is amended to read:

6103.2. Section 6103 does not apply to any fee or charge or expense for official services rendered by a sheriff, marshal or constable in connection with the levy of writs of attachment, execution, possession, or sale. Such fee, charge or expense may be advanced to the sheriff, marshal, or constable, as otherwise required by law.

SEC. 98. Section 7170 of the Government Code is amended to read:

7170. (a) Except as provided in subdivisions (b) and (c), a state tax lien attaches to all property and rights to property whether real

or personal, tangible or intangible, including all after-acquired property and rights to property, belonging to the taxpayer and located in this state.

(b) A state tax lien is not valid as to real property against the right, title, or interest of any of the following persons where the person's right, title, or interest was acquired or perfected prior to recording of the notice of state tax lien in the office of the county recorder of the county in which the real property is located pursuant to Section 7171:

(1) A successor in interest of the taxpayer without knowledge of the lien.

(2) A holder of a security interest.

(3) A mechanic's lienor.

(4) A judgment lien creditor.

(c) A state tax lien is not valid as to personal property against:

(1) The holder of a security interest in the property whose interest is perfected pursuant to Section 9303 of the Commercial Code prior to the time the notice of the state tax lien is filed with the Secretary of State pursuant to Section 7171.

(2) Any person (other than the taxpayer) who acquires an interest in the property under the law of this state without knowledge of the lien or who perfects an interest in accordance with the law of this state prior to the time that the notice of state tax lien is filed with the Secretary of State pursuant to Section 7171.

(3) A buyer in ordinary course of business who, under Section 9307 of the Commercial Code, would take free of a security interest created by the seller.

(4) Any person (other than the taxpayer) who, notwithstanding the prior filing of the notice of the state tax lien:

(A) Is a holder in due course of a negotiable instrument.

(B) Is a holder to whom a negotiable document of title has been duly negotiated.

(C) Is a bona fide purchaser of a security.

(D) Is a purchaser of chattel paper or an instrument who gives new value and takes possession of the chattel paper or instrument in the ordinary course of business.

(E) Is a holder of a purchase money security interest.

(F) Is a collecting bank holding a security interest in items being collected, accompanying documents and proceeds, pursuant to Section 4208 of the Commercial Code.

(G) Acquires a security interest in a deposit account or in the beneficial interest in a trust or estate.

(H) Acquires any right or interest in letters of credit, advices of credit, or money.

(I) Acquires without actual knowledge of the state tax lien a security interest in or a claim in or under any policy of insurance including unearned premiums.

(J) Acquires any right or interest in property subject to a certificate of title statute of another jurisdiction under the law of

which indication of a security interest on the certificate of title is required as a condition of perfection of the security interest.

(5) A judgment lien creditor whose lien was created by the filing of a notice of judgment lien on personal property with the Secretary of State prior to the time the notice of state tax lien is filed with the Secretary of State pursuant to Section 7171.

SEC. 99. Section 7173 of the Government Code is amended to read:

7173. (a) If the taxpayer is a party to an action or special proceeding in which the taxpayer may become entitled to property or a money judgment, a state tax lien extends to the taxpayer's cause of action and any judgment in favor of the taxpayer subsequently procured in the action or proceeding. Notice of the lien shall be given to all parties who, prior thereto, have made an appearance in the action or proceeding. The lien has priority from the time of filing of the notice in the action or proceeding.

(b) No compromise, dismissal, settlement, or satisfaction shall be entered into by or on behalf of the taxpayer with any other party, lienor, or intervenor in the action or proceeding without the consent of the agency unless the lien is sooner released or otherwise discharged; but, until a person receives notice of the lien under subdivision (a) or has actual notice of the lien, the rights of the person are not affected by this subdivision.

(c) The court clerk shall endorse upon the judgment recovered in the action or proceeding a statement of the existence of the lien and the time of the filing of the notice in the action or proceeding. Any abstract issued on the judgment shall include a statement of the lien in favor of the agency.

SEC. 100. Section 9359.3 of the Government Code is amended to read:

9359.3. The right of a person to any benefit or other right under this chapter and the money in the Legislators' Retirement Fund are not subject to execution or any other process whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this chapter.

SEC. 101. Section 16211.5 of the Government Code is amended to read:

16211.5. (a) In the event that the real property securing the state's lien provided for in Article 1 (commencing with Section 16180) is the residential dwelling of a claimant under Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code and is voluntarily sold, the funds derived from the voluntary sale of the residential dwelling shall be placed in an impound account for a period of six months. In connection with the establishment of such account, the Controller shall release the state's lien in the manner prescribed by Section 16186.

(b) The claimant under Chapter 2 (commencing with Section

20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose residential dwelling was voluntarily sold may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a new lien against the new residential dwelling from the time the Controller records the new lien against the new residential dwelling as provided for under Section 16182.

The Controller shall subordinate such new lien to the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of such subordination. Such lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

SEC. 102. Section 21201 of the Government Code is amended to read:

21201. The right of a person to any benefit or other right under this part and the money in the retirement fund are not subject to execution or any process whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable, except as specifically provided in this part.

SEC. 103. Section 26606 of the Government Code is repealed.

SEC. 104. Section 26664 of the Government Code is amended to read:

26664. Any sheriff who neglects or refuses to perform the duties under a writ of attachment, execution, possession, or sale, after being required by the creditor's attorney of record or, if the creditor does not have any attorney of record, by the creditor and after the sheriff's fees have been paid or tendered, is liable to the creditor for all actual damages sustained by the creditor.

SEC. 105. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, writ of execution, writ of sale, or order on real estate is fourteen dollars ($14) as to the initial service or posting of a continuous unbroken parcel or tract, and fourteen dollars ($14) for serving a record owner other than the defendant.

SEC. 106. Section 26726 of the Government Code is amended to read:

26726. (a) The fee for keeping and caring for property under a writ of attachment, execution, possession, or sale shall not exceed thirty-five dollars ($35) when necessarily employed for any eight-hour period or any part thereof. If an additional keeper or keepers are required during such periods, the fee for the additional keeper or keepers shall be the same as herein fixed, but, in no event shall any one keeper receive more than seventy dollars ($70) during any 24-hour period when so employed.

(b) In addition to the fees provided by Section 26721, the fee for maintaining custody of property under levy by the use of a keeper is fourteen dollars ($14) for each day custody is maintained after the first day.

(c) Notwithstanding any other fee charged, a keeper shall receive fourteen dollars ($14) when pursuant to Section 26738 a levying officer prepares a not found return.

SEC. 107. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under a writ of attachment, execution, or sale or order of court is fourteen dollars ($14).

SEC. 108. Section 26733 of the Government Code is amended to read:

26733. The fee for serving a writ of possession of real property, putting a person in possession of the premises, and removing the occupant is fourteen dollars ($14).

SEC. 109. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, writ of possession, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial district in which the address specified is situated, is fourteen dollars ($14).

SEC. 110. Section 26741 of the Government Code is amended to read:

26741. The fee for executing and delivering a certificate or deed of sale is three dollars ($3).

SEC. 111. Section 26744 of the Government Code is amended to read:

26744. The fee for serving or executing a bench warrant arising from an order of appearance issued under Sections 491.010 or 708.170 of the Code of Civil Procedure is fourteen dollars ($14).

SEC. 112. Section 26750 of the Government Code is amended to read:

26750. (a) The fee for serving an earnings withholding order under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, including but not limited to the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to such levy is fourteen dollars ($14).

(b) No additional fees, costs, or expenses may be charged by the levying officer for performing the duties under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

SEC. 113. Section 26820.4 of the Government Code is amended to read:

26820.4. The total fee for filing of the first paper in a civil action or proceeding in the superior court, except an adoption proceeding, shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fee shall not exceed seventy-five dollars ($75).

(2) In any county where a fee is not collected for the court reporter fund, the total filing fee shall not exceed fifty-three dollars ($53).

This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030, 704.750, or 708.160 of the Code of Civil Procedure or Section 11625 of the Elections Code.

SEC. 114. Section 26828 of the Government Code is amended to read:

26828. The fee for issuing a writ of attachment, a writ of mandate, a writ of execution, a writ of sale, a writ of possession, a writ of prohibition, or any other writ for the enforcement of any order or judgment is three dollars ($3).

SEC. 115. Section 27248 of the Government Code is amended to read:

27248. (a) The recorder shall keep an index to abstracts of judgments, labeled: "Abstracts of judgments," each page divided into six columns, headed respectively: "Judgment debtors," "Judgment creditors," "Amount of judgments," "Where recovered," "Date entered or renewed," and "When abstract filed."

(b) The recorder shall include in the index referred to in subdivision (a), or shall keep a comparable separate index to, all of the following:

(1) Certified copies of judgments payable in installments recorded under Section 697.320 or 697.330 of the Code of Civil Procedure.

(2) Acknowledgments of satisfaction of judgment, court clerk's certificates of satisfaction of judgment, acknowledgments of satisfaction of matured installments under an installment judgment, and releases and subordinations of judgment liens, recorded under Section 697.400 of the Code of Civil Procedure.

SEC. 116. Section 27249 of the Government Code is amended to read:

27249. The recorder shall keep an index of attachments, labeled: "Attachments," each page divided into five columns, headed respectively: "Parties against whom attachments are levied (Defendants)," "Parties on whose behalf attachments are levied (Plaintiffs)," "Notices of attachments," "When recorded," and "Where recorded."

SEC. 117. Section 31452 of the Government Code is amended to read:

31452. The right of a person to a pension, annuity, retirement

allowance, return of contributions, the pension, annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the money in the fund created or continued under this chapter, and any property purchased for investment purposes pursuant to this chapter, are exempt from taxation, including any inheritance tax, whether state, county, municipal, or district. They are not subject to execution or any other process of court whatsoever except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this chapter.

SEC. 118. Section 31913 of the Government Code is amended to read:

31913. That portion of the wages of any peace officer deducted or to be deducted under this chapter, the right of a peace officer or other person to an annuity or pension, and all rights of the peace officer or other person in the fund are exempt from taxation and shall not be taken upon execution or other process of any court except to the extent permitted by Section 704.110 of the Code of Civil Procedure. An assignment of any right in or to the funds or to any pension or annuity is void.

SEC. 119. Section 32210 of the Government Code is amended to read:

32210. The title to all property acquired pursuant to this chapter shall be taken in the name of the county. The title to any money which becomes due to any member shall not pass from the county or county fire protection district to the member until he or she is entitled thereto under this chapter. That portion of the wages of any member deducted or to be deducted under this chapter, the right of a member or other person to an annuity or pension, and all rights of the member or other person in the fund are exempt from taxation and shall not be taken upon execution or other process of any court except to the extent permitted by Section 704.110 of the Code of Civil Procedure. An assignment of any right in or to the funds, or to any pension or annuity is void.

SEC. 120. Section 66499.6 of the Government Code is amended to read:

66499.6. Such money, negotiable bond or instrument of credit shall be a trust fund to guarantee performance and shall not be subject to enforcement of a money judgment by any creditors of the depositor until the obligation secured thereby is performed to the satisfaction of the local agency.

SEC. 120.5. Section 69503.1 of the Government Code is amended to read:

69503.1. (a) Notwithstanding Section 69503 of the Government Code or any other law relating to the destruction of court records except the provisions of this section and Section 69503.2, the county clerk may cause to be destroyed any records, papers, case files, and exhibits in any superior court action or proceeding after 30 years have elapsed since the filing of any paper in the action or proceeding

and when the records of the county clerk do not show that the action or proceeding is pending on appeal in any court, provided that minute book entries, minute books, judgment books, and registers of actions shall not be destroyed, unless microfilmed in accordance with the provisions of Section 69503 of the Government Code, and shall constitute for all purposes the record in lieu of the records, papers and exhibits destroyed. For the purposes of this section, "destroy" means destroy or dispose of for the purposes of destruction.

(b) Prior to the disposition of such records the county clerk shall give notice of the proposed disposition to the Secretary of State, who shall have 60 days to request the transfer of the records. If the Secretary of State does not request the transfer of the records the county clerk may destroy them pursuant to this section.

(c) Case files of civil actions which have been dismissed may be destroyed pursuant to this section seven years after dismissal. Case files of civil actions for tortious injury to the person or for wrongful death, which have not been dismissed, may be destroyed 15 years after final judgment, except case files of actions involving the filing of a petition pursuant to Section 372 of the Code of Civil Procedure; provided that no such case file shall be destroyed if the action is pending or under appeal, judgment in the action has been enjoined, the time in which to enforce the judgment has been extended by court order or by operation of law.

(d) This section shall not apply to the records of probate, real property, juvenile, criminal, or adoption actions or proceedings.

SEC. 121. Section 72055 of the Government Code is amended to read:

72055. The total fee for filing of the first paper in a civil action or proceeding in the municipal or justice court, shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any court where a fee is collected for the court reporter fund, the total fee shall not exceed thirty-five dollars ($35).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed twenty-five dollars ($25).

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030, 704.750, or 708.160 of the Code of Civil Procedure.

The term "total fee" as used in this section and Section 72056, includes the clerk's fee, any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any amount allocated to the court reporter fund, and the law library fee pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code.

SEC. 122. Section 7925 of the Health and Safety Code is amended to read:

7925. Money payable or to become payable as the purchase price

or on account of the purchase price of unused lands, or lands from which all remains have been removed is not subject to enforcement of a money judgment, but shall be used exclusively for any or all of the following purposes:

(a) Acquisition of lands and improvements for cemetery purposes.

(b) Disinterment, removal, and reinterment of bodies, pursuant to this chapter.

(c) Endowment care of graves, markers, and cemetery embellishments.

(d) The payment of expenses incidental to the disinterment, removal, and reinterment.

(e) Any other purpose consistent with the objects for which the cemetery authority owning the cemetery is created or organized.

SEC. 123. Section 8561 of the Health and Safety Code is amended to read:

8561. All property dedicated pursuant to this chapter, including roads, alleys, and walks, is exempt from public improvement assessments and is exempt from enforcement of a money judgment against an individual owner of an interment plot to the extent provided in Section 704.200 of the Code of Civil Procedure.

SEC. 124. Section 33124 of the Health and Safety Code is repealed.

SEC. 125. Section 34142 of the Health and Safety Code is repealed.

SEC. 126. Section 34217 of the Health and Safety Code is repealed.

SEC. 127. Section 10213 of the Insurance Code is repealed.

SEC. 128. Section 10498.5 of the Insurance Code is amended to read:

10498.5. If a holder of a certificate of exemption receives or maintains funds for any purpose other than administering and providing the benefits that make it subject to this article, it shall segregate and maintain separately all funds received by it for the purpose of administering and providing such benefits.

When so segregated and maintained separately such benefit funds are not subject to enforcement of a money judgment or other process by or on behalf of creditors of the holder of a certificate of exemption, except that such funds are subject to enforcement of a claim for benefits.

SEC. 129. Section 11045 of the Insurance Code is repealed.

SEC. 130. Section 101 of the Labor Code is amended to read:

101. No court costs of any nature shall be payable by the division, in any civil action to which the division is a party. Any sheriff, marshal, or constable requested by the Labor Commissioner or a deputy or representative of the Labor Commissioner shall serve the summons in the action upon any person within the jurisdiction of the sheriff, marshal, or constable or levy under a writ of attachment or execution in the action upon the property of any defendant without

cost to the division except for keeper's fees, service fees, and storage charges.

SEC. 131. Section 270.5 of the Labor Code is amended to read:

270.5. (a) No person, agent or officer thereof, or logging contractor, or sawmill operations contractor, engaged in the business of logging or operating a sawmill for converting logs into lumber, except in the case of logging or sawmill operations of persons having a free and unencumbered title to the fee of real property in this state, of a market value sufficient to pay the wages of every person employed in connection with such operations in any period for which a single payment of wages is made, shall fail or neglect, before commencing work in any period for which such single payment of wages is made, or for four calendar weeks, whichever is the longer, to do one of the following:

(1) Have on hand or on deposit with a bank or trust company, in the county where such business is conducted, or if there is no bank or trust company in the county, then in the bank or trust company nearest such operations, cash or readily salable securities of a market value sufficient to pay the wages of every person employed in connection with such operations for such period.

(2) Deposit with the Labor Commissioner the bond of a surety company authorized to do business within the state, acceptable to the Labor Commissioner, conditioned upon the payment of all wages found by the Labor Commissioner to be due and unpaid in connection with such operations.

(b) The cash and securities on deposit referred to in subdivision (a) shall not be commingled with other deposits, securities or property of the employer and shall be held in trust and shall not be used for any other purpose than paying the wages due employees. Such moneys so held in trust are not subject to the enforcement of a money judgment by any other creditor of the employer.

(c) Any person, agent or officer thereof, or logging contractor, or sawmill operations contractor, who violates this section is guilty of a misdemeanor.

SEC. 132. Section 270.6 of the Labor Code is amended to read:

270.6. (a) No person or agent or officer thereof, without a permanent and fixed place of business or residence in this state who uses or employs any person in the door-to-door selling of any merchandise, or in any similar itinerant activity, or in any telephone solicitation, shall fail or neglect before commencing work in any period for which any single payment of wages is made or for four calendar weeks, whichever is longer, to do one of the following:

(1) Have on hand or on deposit with a bank or trust company in the county where such business is conducted, or if there is no bank or trust company in the county, then in the bank or trust company nearest such operations, cash or readily salable securities of a market value sufficient to pay the wages of every person employed in connection with such operations for such period, or

(2) Deposit with the Labor Commissioner the bond of a surety

company authorized to do business within the state, acceptable to the Labor Commisioner, conditioned upon the payment of all wages found to be due and unpaid in connection with such operations under any provision of this code, or

(3) Deposit with the Labor Commissioner a time certificate of deposit indicating that the person, agent or officer subject to the provisions of this section has deposited with a bank or trust company cash payable to the order of the Labor Commissioner sufficient to pay the wages of every person employed in connection with such operations for such period.

(b) The cash and securities on deposit referred to in subdivision (a) shall not be commingled with other deposits, securities, or property of the employer and shall be held in trust and shall not be used for any other purpose than paying the wages due employees. Such moneys so held in trust are not subject to enforcement of a money judgment by any other creditor of the employer.

(c) Any person, or agent or officer thereof, who violates this section is guilty of a misdemeanor.

SEC. 132.5. Section 300 of the Labor Code is amended to read:

300. (a) As used in this section, the phrase "assignment of wages" includes the sale or assignment of, or giving of an order for, wages or salary but does not include an order or assignment made pursuant to Section 4701 or 4801.6 of the Civil Code or Section 3088 of the Probate Code.

(b) No assignment of wages, earned or to be earned, is valid unless all of the following conditions are satisfied:

(1) The assignment is contained in a separate written instrument, signed by the person by whom the wages or salary have been earned or are to be earned, and identifying specifically the transaction to which the assignment relates.

(2) Where the assignment is made by a married person, the written consent of the spouse of the person making the assignment is attached to the assignment. No such consent is required of any married person (i) after entry of a judgment decreeing a legal separation from such person's spouse or (ii) if the married person and the spouse of the married person are living separate and apart after entry of an interlocutory judgment of dissolution of their marriage, if a written statement by the person making the assignment, setting forth such facts, is attached to or included in the assignment.

(3) Where the assignment is made by a minor, the written consent of a parent or guardian of the minor is attached to the assignment.

(4) Where the assignment is made by a person who is unmarried or who is an adult or who is both unmarried and an adult, a written statement by the person making the assignment, setting forth such facts, is attached to or included in the assignment.

(5) No other assignment exists in connection with the same transaction or series of transactions and a written statement by the person making the assignment to that effect is attached to or

included in the assignment.

(6) A copy of the assignment and of the written statement provided for in paragraphs (2), (4), and (5), authenticated by a notary public, is filed with the employer, accompanied by an itemized statement of the amount then due to the assignee.

(7) At the time the assignment is filed with the employer, no other assignment of wages of the employee is subject to payment and no earnings withholding order against the employee's wages or salary is in force.

(c) Under any assignment of wages, a sum not to exceed 50 per centum of the assignor's wages or salary shall be withheld by, and be collectible from, the assignor's employer at the time of each payment of such wages or salary.

(d) The employer is entitled to rely upon the statements of fact in the written statement provided for in paragraphs (2), (4), and (5) of subdivision (b), without the necessity of inquiring into the truth thereof, and the employer shall incur no liability whatsoever by reason of any payments made by the employer to an assignee under any assignment in reliance upon the facts so stated.

(e) An assignment of wages to be earned is revocable at any time by the maker thereof. Any power of attorney to assign or collect wages or salary is revocable at any time by the maker thereof. No revocation of such an assignment or power of attorney is effective as to the employer until the employer receives written notice of revocation from the maker.

(f) No assignment of wages, earned or to be earned, is valid under any circumstances if the wages or salary earned or to be earned are paid under a plan for payment at a central place or places established under the provisions of Section 204a.

(g) This section does not apply to deductions which the employer may be requested by the employee to make for the payment of life, retirement, disability or unemployment insurance premiums, for the payment of taxes owing from the employee, for contribution to funds, plans or systems providing for death, retirement, disability, unemployment, or other benefits, for the payment for goods or services furnished by the employer to the employee or the employee's family at the request of the employee, or for charitable, educational, patriotic or similar purposes.

(h) No assignment of wages is valid unless at the time of the making thereof, such wages or salary have been earned, except for necessities of life and then only to the person or persons furnishing such necessities of life directly and then only for the amount needed to furnish such necessities.

SEC. 133. Section 404 of the Labor Code is amended to read:

404. Any money put up as a bond under Sections 401, 402 and 403:

(a) Is not subject to enforcement of a money judgment except in an action between the employer and the employee or applicant, or their successors or assigns.

(b) Shall be returned to the employee or applicant together with

accrued interest thereon, immediately upon the return of the money or property entrusted to the employee or applicant and upon the fulfillment of the agreement, subject only to the deduction necessary to balance accounts between the employer and employee or applicant.

SEC. 134. Section 3862 of the Labor Code is amended to read:

3862. Any employer entitled to and who has been allowed and has perfected a lien upon the judgment or award in favor of an employee against any third party for damages occasioned to the same employer by payment of compensation, expenses of medical treatment, and any other charges under this act, may enforce payment of the lien against the third party, or, in case the damages recovered by the employee have been paid to the employee, against the employee to the extent of the lien, in the manner provided for enforcement of money judgments generally.

SEC. 135. Section 597e of the Penal Code is amended to read:

597e. Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.

SEC. 136. Section 987.8 of the Penal Code is amended to read:

987.8. (a) In any case in which a defendant is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the criminal proceedings in the trial court, the court may, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost thereof. The court may, in its discretion, hold one such additional hearing within six months of the conclusion of the criminal proceedings. The court may, in its discretion, order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the legal assistance provided. At a hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses; disclosure of the evidence against the defendant, and a written statement of the findings of the court. If the court determines that the defendant has the present ability to pay all or part of the cost, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court

believes reasonable and compatible with the defendant's financial ability. The order to pay all or part of the costs may be enforced in the manner provided for enforcement of money judgments generally but may not be enforced by contempt.

(b) Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that upon the conclusion of the criminal proceedings in the trial court, the court may, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost of counsel. The court shall also give notice that, if the court determines that the defendant has such present ability, the court shall order the defendant to pay all or part of such cost. The notice shall inform the defendant that the order shall have the same force and effect as a judgment in a civil action and shall be subject to enforcement against the property of the defendant the same as any other money judgment.

(c) Definitions:

(1) The term "legal assistance provided" means legal counsel and supportive services including, but not limited to, medical and psychiatric examinations, investigative services, expert testimony and any other form of services provided to assist the defendant in the preparation and presentation of the defendant's case.

(2) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of the legal assistance provided, and shall include, but not be limited to the defendant's:

(i) Present financial position;

(ii) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position. Unless the court finds unusual circumstances, a defendant sentenced to state prison shall be determined not to have a reasonably discernible future financial ability to reimburse the costs of the defendant's defense;

(iii) Likelihood that the defendant shall be able to obtain employment within a six month period from the date of the hearing.

(iv) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs of the legal assistance provided.

(d) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering the judgment.

SEC. 137. Section 1206 of the Penal Code is repealed.

SEC. 138. Section 1214 of the Penal Code is amended to read:

1214. If the judgment is for a fine with or without imprisonment, the judgment may be enforced in the manner provided for the

enforcement of money judgments generally.

SEC. 139. Section 1306 of the Penal Code is amended to read:

1306. (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. In no event shall the judgment exceed the amount of the bond, with costs, and notwithstanding any other provision of law, no penalty assessments shall be levied or added to the judgment.

(b) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(c) A dismissal of the complaint, indictment or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(d) The district attorney or civil legal adviser of the board of supervisors shall:

(1) Demand immediate payment of the judgment within five days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally.

(e) The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.

SEC. 140. Section 1397 of the Penal Code is amended to read:

1397. When a fine is imposed upon a corporation on conviction, it may be collected by virtue of the order imposing it in the manner provided for enforcement of money judgments generally.

SEC. 141. Section 1448 of the Penal Code is amended to read:

1448. If the prosecutor does not pay the costs, or give security therefor, the court may enter judgment against the prosecutor for the amount thereof, which may be enforced in the manner provided for enforcement of money judgments generally.

SEC. 141.1. Section 205 of the Probate Code is amended to read:

205. (a) Except as provided by Section 951.1, upon the death of a married person, the surviving spouse is personally liable for the debts of the deceased spouse chargeable against the community property and the debts of the deceased spouse chargeable against the separate property of the deceased spouse to the extent such separate property is characterized as quasi-community property under Section 201.5 by the provisions of Title 8 (commencing with Section 5100) of Part 5 of Division 4 of the Civil Code, unless the interests of both spouses in the community property or quasi-community property, or both, are administered under Division 3 (commencing with Section 300). The personal liability shall not exceed the value

at the date of death, less the amount of any liens and encumbrances, of the interest of the surviving spouse (1) in the community property immediately prior to the death and (2) in quasi-community property arising by virtue of the death which is not exempt from enforcement of a money judgment plus the interest of the deceased spouse in such property passing to the surviving spouse without administration.

(b) If proceedings are commenced in this state for the administration of the estate of the deceased spouse and the time for filing or presenting claims has commenced, any action upon the liability of the surviving spouse pursuant to subdivision (a) shall be barred to the same extent as provided for claims under Article 1 (commencing with Section 700) of Chapter 12 of Division 3 except as to the following:

(1) Creditors who had commenced judicial proceedings for the enforcement of the debts and had served the surviving spouse with process prior to the expiration of the time for filing or presenting claims.

(2) Creditors who secure the acknowledgment in writing of the liability of the surviving spouse for the debts.

(3) Creditors who file a timely claim in the proceedings.

(c) Except as provided by subdivision (b), any debt described in subdivision (a) may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died. In any action based upon the debt, the surviving spouse may assert any defenses, counterclaims, or setoffs which would have been available to the deceased spouse if the deceased spouse had not died.

SEC. 141.3. Section 660 of the Probate Code is amended to read:

660. (a) Until the inventory is filed and for a period of 60 days thereafter or such other period as is ordered by the court for good cause, the decedent's surviving spouse and minor children are entitled to remain in possession of the family dwelling, the wearing apparel of the family, the household furniture and other property of the decedent exempt from enforcement of a money judgment.

(b) Upon the filing of the inventory or at any subsequent time during the administration, the court, on petition therefor, may in its discretion:

(1) Set apart to the surviving spouse, or, in case of his or her death, to the minor children of the decedent, all or any part of the property of the decedent exempt from enforcement of a money judgment other than the dwelling.

(2) Select and set apart one homestead in the manner provided in this article.

SEC. 141.5. Section 663 of the Probate Code is amended to read:

663. (a) Property of the decedent set apart as a homestead is liable for claims against the estate of the decedent, subject to the homestead right. The homestead right in property of the decedent is liable for claims that are secured by liens and encumbrances on the

property at the time of the decedent's death but is exempt to the extent of the homestead exemption provided by Article 4 (commencing with Section 704.710) of Chapter 4 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure as to any claim that would have been subject to such homestead exemption at the time of the decedent's death.

(b) The homestead right in the property of the decedent is not liable for claims against the person for whose use the homestead is set apart.

(c) Property of the decedent set apart as a homestead is liable for claims against the testate or intestate successors of the decedent or other successors to the property after administration, subject to the homestead right.

SEC. 141.7. Section 704.2 of the Probate Code is amended to read:

704.2. A claim may be filed by the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse for the payment of the debts of the deceased spouse described in Section 205. The claim must be filed prior to the filing of a petition for final distribution. It shall set forth the reason why the debts are not barred by subdivision (b) of Section 205 and a statement whether the debts remain unpaid or have been paid by the surviving spouse. If the surviving spouse is personally liable for the debts, the claim shall also include an inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property which is exempt from enforcement of a money judgment.

SEC. 141.9. Section 704.4 of the Probate Code is amended to read:

704.4. If any community property is administered in the estate, the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a claim against the estate for the payment of the debts of the surviving spouse for which the community property is liable. The claim must be filed prior to the filing of a petition for final distribution. It shall include a statement whether the debts remain unpaid or have been paid by the surviving spouse. It shall also include an inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property which is exempt from enforcement of a money judgment.

SEC. 142. Section 732.5 of the Probate Code is repealed.

SEC. 143. Section 734 of the Probate Code is repealed.

SEC. 144. Section 954 of the Probate Code is amended to read:

954. When an order is made for the payment of creditors, the executor or administrator is personally liable to each creditor for the

creditor's allowed claim, or the dividend thereon. The order may be enforced in the manner provided for the enforcement of money judgments generally. The executor or administrator is liable therefor on his bond to each creditor.

SEC. 145. The heading of Part 6 (commencing with Section 3000) of Division 4 of the Probate Code is amended to read:

PART 6. MANAGEMENT OR DISPOSITION OF COMMUNITY PROPERTY WHERE SPOUSE LACKS LEGAL CAPACITY

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

Article 1. Definitions

SEC. 146. Section 3002 of the Probate Code is amended to read:

3002. "Community property" means community real property and community personal property, including but not limited to a community property business that is or was under the sole management and control of one of the spouses, but does not include community property in a revocable trust described in Section 5113.5 of the Civil Code.

SEC. 147. Section 3010 of the Probate Code is repealed.

SEC. 148. Section 3012 of the Probate Code is amended to read:

3012. (a) Unless the spouse lacks legal capacity under the applicable standard prescribed in subdivision (b), a spouse has legal capacity to:

(1) Manage and control community property, including legal capacity to dispose of community property.

(2) Join in or consent to a transaction involving community property.

(b) A spouse lacks legal capacity to:

(1) Manage and control, including legal capacity to dispose of, community property if the spouse is substantially unable to manage or control the community property.

(2) Join in or consent to a transaction involving community property if the spouse does not have legal capacity for the particular transaction measured by principles of law otherwise applicable to the particular transaction.

(3) Do any act, or engage in any activity, described in paragraph (1) or (2) if the spouse has a conservator.

(c) Nothing in this section shall be construed to deny a spouse, whether or not lacking legal capacity, any of the following:

(1) The right to control an allowance provided under Section 2421.

(2) The right to control wages or salary to the extent provided in Section 2601.

(3) The right to make a will subject to the limitations of Chapter 1 (commencing with Section 20) of Division 1.

(4) The right to enter into transactions to the extent reasonable

to provide the necessities of life to the spouse, the other spouse, and the minor children of the spouses.

SEC. 149. Section 3021 of the Probate Code is repealed.

SEC. 150. Section 3022 of the Probate Code is repealed.

SEC. 151. Section 3023 of the Probate Code is amended to read:

3023. (a) Except as provided in subdivisions (b) and (c), where one or both of the spouses has a conservator, the court in which any of the conservatorship proceedings is pending may hear and determine whether property is community property or the separate property of either spouse when the issue is raised in any proceeding under this division.

(b) Any person having or claiming title to or an interest in the property, at or prior to the hearing on the issue, may object to the hearing if the court is not the proper court under any other provision of law for the trial of an action to determine the issue. If the objection is established, the court shall not hear and determine the issue.

(c) If a civil action is pending with respect to the issue and jurisdiction has been obtained in the court in which the civil action is pending, upon request of any party to the civil action, the court shall abate the hearing until the conclusion of the civil action.

SEC. 152. Section 3052 of the Probate Code is repealed.

SEC. 153. Section 3053 of the Probate Code is repealed.

SEC. 154. Section 3054 of the Probate Code is amended to read:

3054. When community property is included or proposed to be included in the conservatorship estate of a spouse, the court in which the conservatorship proceeding is pending, upon its own motion or upon petition of a spouse having legal capacity or the conservator of either spouse and upon such notice to such persons as the court prescribes, may do any of the following:

(a) Determine that the inclusion of some or all of the community property that is proposed to be included in the conservatorship estate would not be in the best interest of the spouses or their estates and order that such property not be included.

(b) Permit revocation of a written consent for inclusion of property in the conservatorship estate, with or without terms or conditions.

(c) Determine that the continued inclusion of some or all of the community property in the conservatorship estate is not in the best interest of the spouses or their estates and order that the inclusion of such property in the conservatorship estate be terminated, with or without terms or conditions.

(d) Make such other orders as may be appropriate for the orderly administration of the conservatorship estate or to protect the interests of the spouses.

SEC. 155. Section 3055 of the Probate Code is amended to read:

3055. (a) If consent is given under this article that community property be included in the conservatorship estate of a spouse, the death of either spouse terminates the consent.

(b) If a spouse consents under this article that community

property be included in the conservatorship estate of the other spouse:

(1) Subject to paragraph (2), the subsequent lack of legal capacity of the spouse giving the consent has no effect on the inclusion of the property in the conservatorship estate of the other spouse.

(2) The appointment of a conservator for the spouse giving the consent terminates the consent.

SEC. 156. Section 3056 of the Probate Code is amended to read:

3056. Except as otherwise provided in this part and subject to Section 3071, when community property is included in a conservatorship estate under this article for the purpose of management, control, and disposition, the conservator has the same powers and duties with respect to such property as the conservator has with respect to other property of the conservatorship estate.

SEC. 157. Section 3071 of the Probate Code is amended to read:

3071. (a) In case of a transaction for which the joinder or consent of both spouses is required by Section 5125 or 5127 of the Civil Code or by any other statute, if one or both spouses lacks legal capacity for the transaction, the requirement of joinder or consent shall be satisfied as provided in this section.

(b) Where one spouse has legal capacity for the transaction and the other spouse has a conservator, the requirement of joinder or consent is satisfied if both of the following are obtained:

(1) The joinder or consent of the spouse having legal capacity.

(2) The joinder or consent of the conservator of the other spouse given in compliance with Section 3072.

(c) Where both spouses have conservators, the joinder or consent requirement is satisfied by the joinder or consent of each such conservator given in compliance with Section 3072.

(d) In any case, the requirement of joinder or consent is satisfied if the transaction is authorized by an order of court obtained in a proceeding pursuant to Chapter 3 (commencing with Section 3100).

SEC. 158. Section 3073 of the Probate Code is amended to read:

3073. (a) The joinder or consent under Section 3071 of a spouse having legal capacity shall be in such manner as complies with Section 5125 or 5127 of the Civil Code or other statute that applies to the transaction.

(b) The joinder or consent under Section 3071 of a conservator shall be in the same manner as a spouse would join in or consent to the transaction under the statute that applies to the transaction except that the joinder or consent shall be executed by the conservator and shall refer to the court order, if one is required, authorizing the conservator to join in or consent to the transaction.

SEC. 158.5. Section 3088 of the Probate Code, as added by Chapter 9 of the Statutes of 1981, is amended to read:

3088. (a) The court may order the spouse who has the management or control of community property to apply the income or principal, or both, of the community property to the support and maintenance of the conservatee (including care, treatment, and

support of a conservatee who is a patient in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services) as ordered by the court.

(b) In determining the amount ordered for support and maintenance, the court shall consider the following circumstances of the spouses:

(1) The earning capacity and needs of each spouse.

(2) The obligations and assets, including the separate property, of each spouse.

(3) The duration of the marriage.

(4) The age and health of the spouses.

(5) The standard of living of the spouses.

(6) Any other relevant factors which it considers just and equitable.

(c) At the request of any interested person, the court shall make appropriate findings with respect to the circumstances.

(d) The court may order the spouse who has the management or control of community property to make a specified monthly or other periodic payment to the conservator of the person of the conservatee or to such other person as is designated in the order. The court may order the spouse required to make the periodic payments to give reasonable security therefor.

(e) The court may order the spouse required to make the periodic payments to assign, to the person designated in the order to receive the payments, that portion of the earnings of the spouse due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support and maintenance of the conservatee. Such order shall operate as an assignment and shall be binding upon any existing or future employer upon whom a copy of the order is served. The order shall be in the form for an order assigning salary or wages prescribed by the Judicial Council for use in family law proceedings. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment unless otherwise ordered by the court or unless the other assignment is made pursuant to Section 4701 of the Civil Code. No employer shall use any assignment authorized by this subdivision as grounds for the dismissal of such employee. As used in this subdivision, "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code. The provisions of this subdivision apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(f) The court shall retain jurisdiction to modify or to vacate an order made under this section where justice requires, except as to any amount that may have accrued prior to the date of the filing of

the petition to modify or revoke the order. At the request of any interested person, the order of modification or revocation shall include findings of fact and may be made retroactive to the date of the filing of the petition to revoke or modify, or to any date subsequent thereto. At least 15 days before the hearing on the petition to modify or vacate the order, the petitioner shall mail a notice of the time and place of the hearing on the petition, accompanied by a copy of the petition, to the spouse who has the management or control of the community property. Notice shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1 to any other persons entitled to notice of the hearing under that chapter.

(g) In a proceeding under Title 3 (commencing with Section 4500) of Part 5 of Division 4 of the Civil Code, the court has jurisdiction to modify or vacate an order made under this section to the same extent as it may modify or vacate an order made in a proceeding under that title.

SEC. 159. Section 3100 of the Probate Code is amended to read:

3100. As used in this chapter, "transaction" means a transaction that involves community real or personal property, tangible or intangible, or an interest therein or a lien or encumbrance thereon, including, but not limited to, those transactions with respect thereto as are listed in Section 3102.

SEC. 160. Section 3101 of the Probate Code is amended to read:

3101. (a) A proceeding may be brought under this chapter for a court order authorizing a proposed transaction, whether or not the proposed transaction is one that otherwise would require the joinder or consent of both spouses, if both of the following conditions are satisfied:

(1) One of the spouses is alleged to lack legal capacity for the proposed transaction, whether or not that spouse has a conservator.

(2) The other spouse either has legal capacity for the proposed transaction or has a conservator.

(b) A proceeding may be brought under this chapter for a court order declaring that one or both spouses has legal capacity for a proposed transaction.

(c) One proceeding may be brought under this chapter under both subdivision (a) and subdivision (b).

(d) In a proceeding under this chapter, the court may determine whether the property that is the subject of the proposed transaction is community property or the separate property of either spouse, but such determination shall not be made in the proceeding under this chapter if the court determines that the interest of justice requires that the determination be made in a civil action.

(e) This chapter is permissive and cumulative for the transactions to which it applies.

SEC. 161. Section 3121 of the Probate Code is amended to read:

3121. The petition shall set forth all of the following information:

(a) The name, age, and residence of each spouse.

(b) If one or both spouses is alleged to lack legal capacity for the proposed transaction, a statement that the spouse has a conservator or a statement of the facts upon which the allegation is based.

(c) If there is a conservator of a spouse, the name and address of the conservator, the county in which the conservatorship proceeding is pending, and the court number of the proceeding.

(d) If a spouse alleged to lack legal capacity for the proposed transaction is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the name and address of the institution.

(e) The names and addresses of the adult relatives within the second degree of each spouse alleged to lack legal capacity for the proposed transaction, if known to the petitioner.

(f) A sufficient description of the property that is the subject of the proposed transaction.

(g) An allegation that the property is community property.

(h) The estimated value of the property.

(i) The terms and conditions of the proposed transaction, including the names of all parties thereto.

(j) The relief requested.

SEC. 162. Section 3122 of the Probate Code is amended to read:

3122. If the proceeding is brought for a court order authorizing a proposed transaction, the petition shall set forth, in addition to the information required by Section 3121, all of the following:

(a) An allegation that one of the spouses has a conservator or facts establishing lack of legal capacity of the spouse for the proposed transaction.

(b) An allegation that the other spouse has legal capacity for the proposed transaction or has a conservator.

(c) An allegation that each spouse either: (1) joins in or consents to the proposed transaction, (2) has a conservator, or (3) is substantially unable to manage his or her financial resources or resist fraud or undue influence.

(d) Facts that may be relied upon to show that the authorization sought is for one or more of the following purposes:

(1) The advantage, benefit, or best interests of the spouses or their estates.

(2) The care and support of either spouse or of such persons as either spouse may be legally obligated to support.

(3) The payment of taxes, interest, or other encumbrances or charges for the protection and preservation of the community property.

(4) The providing of gifts for such purposes, and to such charities, relatives (including one of the spouses), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the spouses.

SEC. 163. Section 3144 of the Probate Code is amended to read:

3144. (a) The court may authorize the proposed transaction if the court determines all of the following:

(1) The property that is the subject of the proposed transaction is community property of the spouses.

(2) One of the spouses then has a conservator or otherwise lacks legal capacity for the proposed transaction.

(3) The other spouse either has legal capacity for the proposed transaction or has a conservator.

(4) Each of the spouses either (i) joins in or consents to the proposed transaction, (ii) has a conservator, or (iii) is substantially unable to manage his or her own financial resources or resist fraud or undue influence. Substantial inability may not be proved by isolated incidents of negligence or improvidence.

(5) The proposed transaction is one that should be authorized under this chapter.

(b) If the proposed transaction is to provide gifts for such purposes, and to such charities, relatives (including one of the spouses), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the spouses, the court may authorize the transaction under this chapter only if the transaction is one that the court would authorize under Article 10 (commencing with Section 2580) of Chapter 6 of Part 4 (substituted judgment) in the case of a conservatorship.

(c) If the court determines under subdivision (a) that the transaction should be authorized, the court shall so order and may authorize the petitioner to do and perform all acts and to execute and deliver all papers, documents, and instruments necessary to effectuate the order.

(d) In an order authorizing a transaction, the court may prescribe such terms and conditions as the court in its discretion determines appropriate, including but not limited to requiring joinder or consent of another person.

SEC. 164. Section 12337 of the Public Utilities Code is amended to read:

12337. All money received by any person as an annuity, pension, retirement allowance, disability payment, or death benefit from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such person or deposited, loaned, or invested by him, is unassignable, and is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure.

SEC. 165. Section 25337 of the Public Utilities Code is amended to read:

25337. All money received by any person as an annuity, pension, retirement allowance, disability payment, or death benefit from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such person or deposited, loaned, or invested by him, is unassignable, and is exempt from execution or any other process except to the extent permitted by Section 704.110 of the

Code of Civil Procedure.

SEC. 166. Section 28896 of the Public Utilities Code is amended to read:

28896. All money received by any person as an annuity, pension, retirement allowance, disability payment, or death benefit from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such person or deposited, loaned, or invested by him, is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure and is unassignable.

SEC. 167. Section 50146 of the Public Utilities Code is amended to read:

50146. All money received by any person as an annuity, pension, retirement allowance, disability payment, or death benefit from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such person or deposited, loaned, or invested by him, is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure and is unassignable.

SEC. 168. Section 95836 of the Public Utilities Code is amended to read:

95836. All money received by any person as an annuity, pension, retirement allowance, disability payment or death benefit, from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such member or deposited, loaned, or invested by him, is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure and is unassignable.

SEC. 169. Section 98196 of the Public Utilities Code is amended to read:

98196. All money received by any person as an annuity, pension, retirement, allowance, disability payment or death benefit, from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of such member or deposited, loaned, or invested by him, is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure and is unassignable.

SEC. 170. Section 32373 of the Revenue and Taxation Code is amended to read:

32373. At the sale the property shall be sold by the board or by its authorized agent in accordance with law and the notice, and the board shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the taxpayer.

SEC. 171. Section 5422 of the Streets and Highways Code is amended to read:

5422. The court in which an action for the recovery of an assessment is commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of the courts. On appeal, the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken.

SEC. 172. Section 6617 of the Streets and Highways Code is repealed.

SEC. 173. Section 8832 of the Streets and Highways Code is amended to read:

8832. The court shall have the power to adjudge and decree a lien against the lot or parcel of land covered by the assessment or reassessment for the amount of the judgment and to order the premises to be sold on execution as in other cases of the sale of real property by the process of the court.

The foreclosure action shall be governed and regulated by the provisions of this chapter, and also where not in conflict with this chapter, by the codes of this state.

SEC. 174. Section 9356 of the Streets and Highways Code is amended to read:

9356. The court may adjudge and decree a lien against the lot or parcel of land covered by the reassessment for the amount of the judgment and may order the premises to be sold on execution as in other cases of the sale of real estate by the process of the court.

SEC. 175. Section 988 of the Unemployment Insurance Code is amended to read:

988. In case of the insolvency or bankruptcy of an employer, contributions by workers, payable as provided in this article, shall not be considered any part of the employer's assets and shall be paid to the director prior to the payment of any other claim against the employer.

SEC. 176. Section 1342 of the Unemployment Insurance Code is amended to read:

1342. Any waiver by any person of any benefit or right under this code is invalid. Benefits under this code, incentive payments provided by Division 2 (commencing with Section 5000), and payments to an individual under a plan or system established by an employer which makes provisions for his employees generally, or for a class or group of his employees, for the purpose of supplementing unemployment compensation benefits, are not subject to assignment, release, or commutation. Any agreement by any individual in the employ of any person or concern to pay all or any portion of the contributions required of his employer under this division is void.

SEC. 177. Section 1788 of the Unemployment Insurance Code is

repealed.

SEC. 178. Section 8537 of the Water Code is repealed.

SEC. 179. Section 22142 of the Water Code is repealed.

SEC. 180. Section 908 of the Welfare and Institutions Code is amended to read:

908. (a) Where the juvenile court has ordered payment of money to be made for the cost of legal services referred to by Section 903.1, for the cost of probation supervision referred to by Section 903.2, or for the cost of care, support, or maintenance in any county institution, or as reimbursement to the county for the expense of support and maintenance of any ward, dependent child, or other minor person as provided in this article, or as additional payment for the expense of support and maintenance of such ward, dependent child, or other minor person to the person, association, or institution that, under court order, is caring for and maintaining such ward, dependent child, or other minor person, either from the earnings, property, or estate of such ward, dependent child, or other minor person, or by his or her parents or guardian, or by any other person liable for his or her support, upon affidavit of the county officers designated by the board of supervisors that any payment is due and has not been made, execution may issue for such payment upon the order and at the discretion of the court after 15 days' prior notice to the person or estate ordered to make such payment.

(b) Whenever an order for execution may issue pursuant to subdivision (a) for the total amount due, the court may, upon the same notice required for an order of execution under subdivision (a), enter an order for payment of such amount, and such order shall be considered a judgment for purposes of Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

SEC. 181. Section 929 of the Welfare and Institutions Code is amended to read:

929. The earnings of the minor shall be collected by the juvenile work furlough administrator, and it shall be the duty of the minor's employer to transmit such wages to the administrator at the latter's request. Earnings levied upon pursuant to Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure shall not be transmitted to the administrator. If the administrator has requested transmittal of earnings prior to levy, such request shall have priority. When an employer transmits such earnings to the administrator pursuant to this section the employer shall have no liability to the minor for such earnings. From such earnings the administrator shall pay the minor's board and personal expenses, both inside and outside the juvenile detention facility, and shall deduct so much of the costs of administration of this article as is allocable to such minor. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the minor, pay, in whole or in part, the preexisting debts of the minor. Any balance shall be retained until the minor's

discharge and thereupon shall be paid to the minor.

SEC. 182. Section 11002 of the Welfare and Institutions Code is amended to read:

11002. All aid given under a public assistance program shall be absolutely inalienable by any assignment, sale, or otherwise.

SEC. 182.5. Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall:

(a) Assign to the county any rights to support from any other person such applicant may have in their own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and which have accrued at the time such assignment is made. Receipt of public assistance under this chapter shall operate as an assignment by operation of law. An assignment of support rights to the county shall also constitute an assignment to the state. If support rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the district attorney or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(b) Cooperate with the county welfare department and district attorney in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining any support payments due any person for whom aid is requested or obtained. The State Department of Social Services shall establish an exclusive list of acts, in accordance with federal law, which shall be the only acts deemed to be a refusal to offer reasonable cooperation and assistance. The county welfare department shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that such applicant or recipient is ineligible. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing support and determining paternity, where applicable.

A recipient shall be considered to be cooperating with the county welfare department or the district attorney's office and they shall be eligible for aid, if otherwise eligible, if they cooperate to the best of their ability or have good cause for refusal to cooperate. The department, in accordance with federal law, shall establish standards for determining good cause for refusal to cooperate. With respect to any application or any questionnaire relating to any application, no questions on paternity shall be asked in cases where paternity is not legally an issue. Persons eligible for immediate aid pursuant to Section 11056 or Section 11266 shall receive such aid prior to completing the forms required to obtain child and spousal support and establish paternity, provided that they indicate they will cooperate in these matters. Appearances at public agencies required

pursuant to this section, subsequent to certification of the applicant shall be scheduled with due regard for his parental duties and employment responsibilities. If an appearance is required at a time other than normal working hours, a statement as to the reason for such appearance shall be inserted in the file of the applicant.

If the relative with whom a child is living is found to be ineligible because of failure to comply with the provisions of this section, any aid for which such child is eligible will, to the extent required by federal law, be provided in the form of protective payments.

The county welfare department shall insure that all applicants for or recipients of aid under this chapter are properly notified of the conditions imposed by this section.

SEC. 183. Section 14115.5 of the Welfare and Institutions Code is amended to read:

14115.5. Moneys payable or rights existing under this chapter shall be subject to any claim, lien or offset of the State of California, and any claim of the United States of America made pursuant to federal statute, but shall not otherwise be subject to enforcement of a money judgment or other legal process, and no transfer or assignment, at law or in equity, of any right of a provider of health care to any payment shall be enforceable against the state, a fiscal intermediary or carrier.

SEC. 184. Section 17409 of the Welfare and Institutions Code is amended to read:

17409. There shall be exempt from the transfers and grants authorized by Section 17109 and from execution on claims under Section 17403 against property acquired by persons for the support of whom public moneys have been expended all of the following property:

(a) Cash to the amount of fifty dollars ($50).

(b) Personal effects and household furniture to the value of five hundred dollars ($500).

(c) An interment space, crypt, or niche intended for the interment of the applicant or recipient of aid.

(d) Funds placed in trust for funeral or burial expenses to the extent that such funds do not exceed the sum of five hundred dollars ($500).

(e) Insurance policies having an actual cash surrender value of not to exceed five hundred dollars ($500).

(f) Real or personal property of a recipient of public assistance, with respect to aid or county hospital care granted after May 21, 1963.

(g) For a period of six months from the date of receipt, the compensation received from a public entity which acquires for a public use a dwelling actually owned and occupied by the recipient. Such compensation shall be exempt in the amount, over and above all liens and encumbrances, provided by Section 704.730 of the Code of Civil Procedure.

(h) Relocation benefits shall be exempt as provided by Section 704.180 of the Code of Civil Procedure.

No county shall withhold emergency medical or hospital care from any person pending the person giving security for reimbursement to the county for the care or hospitalization to be provided to the person.

SEC. 185. This act shall become operative only if Assembly Bill No. 707 is chaptered and becomes effective January 1, 1983, and in such case this act shall become operative on July 1, 1983, the same as Assembly Bill No. 707.

SEC. 186. It is the intent of the Legislature, if this bill is chaptered, that Sections 682.1 and 685.010 of the Code of Civil Procedure, as amended and added, respectively, by Chapter 150 of the Statutes of 1982 shall become effective on January 1, 1983 and shall remain operative until July 1, 1983, at which time they shall be repealed as provided by Section 1 of Assembly Bill 707.

CHAPTER 498

An act to amend Section 69598 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Section 69598 of the Government Code is amended to read:

69598. In the County of San Joaquin there shall be 10 judges of the superior court; provided, that if the board of supervisors adopts a resolution stating that a vacancy will occur in the office of juvenile court referee upon the appointment of an eleventh judge, there shall be 11 judges of the superior court. The referee may continue to serve until the eleventh judge has been appointed.

SEC. 2. The sum of two hundred twenty-seven thousand five hundred thirty-four dollars ($227,534) is hereby appropriated from the General Fund to the Controller for allocation and disbursement, as follows:

(a) To San Joaquin County, in augmentation of Item 0420-101-001 of the Budget Act of 1982, for the state share of salaries of judges of the superior court as provided by Section 68206 of the Government Code	$53,767
(b) To San Joaquin County, in augmentation of Item 0440-101-011 of the Budget Act of 1982, for reimbursement of costs incurred pursuant to this act as provided in Section 2231 of the Revenue and Taxation Code	120,000

(c) To San Joaquin County, without regard to fiscal year, for the state share of salaries of judges of the superior court as provided in Section 68206 of the Government Code upon the occurrence of a vacancy in the office of juvenile court referee and the establishment of an additional judgeship as provided in Section 69598 of the Government Code as amended by Section 1 of this act 53,767

$227,534

SEC. 3. It is the intent of the Legislature that no block grant be provided for the eleventh superior court judge in San Joaquin County because the position replaces the existing juvenile court referee position.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any costs incurred because of this act.

CHAPTER 499

An act to add Division 18 (commencing with Section 40000) to the Financial Code, relating to housing, and making an appropriation therefor.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Division 18 (commencing with Section 40000) is added to the Financial Code, to read:

DIVISION 18. CALIFORNIA HOME LOAN MORTGAGE ASSOCIATION

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

40000. This division shall be known and may be cited as the California Home Loan Mortgage Act.

40001. The Legislature finds and declares that historically, California has been a state in which the need for residential

mortgage funds has greatly exceeded the supply of such funds within the state. A substantial portion of this deficit has been met in the past by the sale by California institutional lenders of residential mortgages to out-of-state sources, including federal mortgage finance agencies, out-of-state institutional loan buyers and the public capital markets. In recent years, increasingly high interest rates have created an acute shortage of mortgage funds from these traditional sources. This shortage is inimical to the safety, health, and welfare of the residents of this state and the sound growth of its communities. In order to supply the need in California for residential mortgage funds, it is necessary to implement a public program to make California residential mortgages more salable to sources of capital.

40002. The Legislature declares that the purposes of this division are to establish secondary market facilities for home mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to:

(a) Provide supplementary assistance to the secondary market for home mortgages by providing a degree of liquidity for mortgage investments, thereby improving the distribution of investment capital available for home mortgage financing.

(b) Provide assistance for the financing of home mortgages as a means of retarding or stopping a decline in mortgage lending and home building activities which materially threatens the stability of a high level state economy.

40003. The following definitions shall govern the construction of this division:

(a) "Association" means the California Home Loan Mortgage Association.

(b) "Board" means the board of directors of the association.

(c) "Eligible issuer" means a mortgage lender having all of the following qualifications:

(1) Has adequate experience, management capability, and facilities to issue and service mortgage-backed securities, in accordance with the bylaws and regulations of the association.

(2) Is authorized to do business in the State of California.

(3) Owns at all times, except as may otherwise be provided in Section 40108, mortgage capital certificates issued pursuant to Section 40150 with a total face amount equal to a minimum amount fixed by the association.

(4) Meets the requirements, conditions, and limitations which may be imposed by the bylaws or regulations of the association.

(5) Satisfies any other requirements contained in Section 40102.

(d) "Minimum Guarantee Reserve Account requirement" means the total amounts in the Guarantee Reserve Account established pursuant to Section 40156 for all outstanding securities guaranteed by the association, as of any particular date of computation by the association, required to ensure the continued payment of principal and interest on such securities in the event of default by the issuer.

(e) "Modified pass-through securities" means securities which provide for the payment by the issuer to the holders of a proportionate share of the proceeds of principal and interest, whether or not collected, on account of a pool of mortgages, less servicing fees and other specified costs approved by the association, with all prepayments being passed through to the holder.

(f) "Mortgage capital certificates" means interest-bearing obligations issued by the association to enable the association to carry out its functions under this part.

(g) "Straight pass-through securities" means securities which provide for the payment by the issuer to the holders of a proportionate share of the proceeds of principal and interest, as collected, on account of a pool of mortgages, less servicing fees and other specified costs approved by the association, with all prepayments being passed through to the holder.

CHAPTER 2. OPERATIONS AND POWERS

40050. There is in the state government the California Home Loan Mortgage Association. The association constitutes a public instrumentality and a political subdivision of the state, and the exercise of the powers conferred by this division shall be deemed and held to be the performance of an essential public function.

40051. (a) The association shall be administered by a board of directors consisting of seven voting members, including a chairperson, each of whom shall serve for a term of one year, beginning on January 1. Except as otherwise provided by this section, the board shall consist of one director appointed by the Governor and confirmed by the Senate, one director appointed by the Senate Rules Committee, one director appointed by the Speaker of the Assembly and four directors chosen by a plurality of the eligible issuers in an election conducted in accordance with the procedures adopted pursuant to subdivision (b).

(b) Notwithstanding anything contained in subdivision (a), the board during the term first beginning after the effective date of this division shall consist of seven directors, three of whom shall be appointed by the Governor and confirmed by the Senate, two of whom shall be appointed by the Senate Rules Committee, and two of whom shall be appointed by the Speaker of the Assembly. Two of the directors appointed by the Governor and one each of the directors respectively appointed by the Senate Rules Committee and Speaker of the Assembly pursuant to this subdivision shall be appointed from the savings and loan, mortgage banking, or commercial banking industry. By July 31, 1982, the board shall adopt bylaws and regulations governing the qualifications of eligible issuers and the procedures for conducting elections under subdivision (a).

(c) Any vacancy occurring on the board during a term shall be filled by a person appointed by the same authority which appointed the vacating member to his or her position, and, if appointed by the

Governor, the appointment shall be confirmed by the Senate.

40052. Board members shall be removable solely for cause.

40053. The board shall elect a chairperson who, when present, shall preside at meetings of the board.

40054. The board shall elect a president of the association who shall be the chief executive officer and shall serve at the pleasure of the board. The board shall select and effect the appointment of qualified persons to fill the offices of vice president, and such other offices as may be provided for in the bylaws. Persons elected or appointed under this section shall perform such executive functions, powers, and duties as may be prescribed by the regulations and bylaws prescribed under this chapter and such persons shall be executive officers of the association and shall discharge all such executive functions, powers and duties. The president may from time to time employ technical experts and such other employees as may, in his or her judgment, be necessary for the conduct of the business of the association.

The compensation of the president shall be established by the board in such amount as is reasonably necessary, in the discretion of the board, to attract and hold a person of superior qualifications. Members of the board shall not receive a salary but shall be entitled to a per diem allowance in accordance with the rules and regulations promulgated under Section 13920 of the Government Code by the State Board of Control.

40055. Upon request of the association, the Attorney General shall represent the agency or the department and the state in litigation concerning affairs of the association, unless the Attorney General represents another state agency, in which case the agency or the association shall be authorized to employ other counsel.

40056. The president shall prepare a preliminary budget on or before November 1, of each year for the ensuing fiscal year for review and comment by the board of directors, and such preliminary budget, together with the comments of the board, shall be submitted by December 1, to be reviewed by the Secretary of the Business, Transportation, and Housing Agency, the Director of Finance, and the Joint Legislative Budget Committee. An analysis of the association's proposed budget prepared by the Joint Legislative Budget Committee, together with any comments of the committee, shall be transmitted to the chairpersons of the fiscal committee of each house of the Legislature and to the chairperson of the board of directors prior to the board's final adoption of the association's budget.

40057. The association shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business, Transportation and Housing Agency, the State Treasurer, and the Legislature. Within 90 days following the close of each fiscal year, the agency shall also submit an annual report to the Joint Legislative Budget Committee. Each report shall set forth a

complete operating and financial statement of the association during the concluded fiscal year. The report shall also include a statement of accomplishment during the previous year with respect to the association's progress and priorities. The association shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

Within 90 days following receipt of the association's annual report, the Joint Legislative Budget Committee shall submit a report on the association's activities under this division to the Legislature.

40058. (a) The board shall authorize the guarantee or sale of obligations or securities and shall approve other major contractual agreements. Any other contractual agreements or debt obligations may be approved by the president pursuant to regulations of the board.

(b) Actions of the board may be taken only by a concurrence of a majority of the entire membership thereof.

40059. The association shall have all of the following powers:

(a) To adopt, alter, and use a corporate seal, which shall be judicially noticed.

(b) To enter into and perform contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this part on such terms as it may deem appropriate, with any government agency, or with any person, firm, association, or corporation.

(c) To execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers.

(d) In the name of the association, to sue and to be sued, and to complain and to defend, in any court of competent jurisdiction, state or federal, but no attachment, injunction, or other similar process, mesne or final, shall be issued against the property of the association or against the association with respect to its property.

(e) To lease, purchase, or acquire any property, real, personal, or mixed, or any interest therein, to hold, rent, maintain, modernize, renovate, improve, use, and operate such property, and to sell, for cash or credit, lease, or otherwise dispose of the same, at such time and in such manner as and to the extent that it may deem necessary or appropriate to procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it deems desirable.

(f) To borrow money and issue guarantee payment of principal and interest on securities, as provided in this part.

(g) To prescribe, repeal, and amend or modify, rules, regulations, bylaws, or requirements governing the manner in which its general business may be conducted.

(h) To accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of its

purposes.

(i) The association shall have the power to select and appoint or employ such officers, employees, and agents, to vest them with such powers and duties, and to fix and to cause the association to pay such compensation to them for their services, as it may determine with the approval of the Department of Personnel Administration, payable out of the California Home Loan Mortgage Fund in the State Treasury.

(j) To do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

40060. The exercise of the powers specified in this part will be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and the association shall not be required to pay any tax or assessment on any property owned by the association under the provisions of this part or upon the income therefrom.

CHAPTER 3. GUARANTEE OF PRINCIPAL AND INTEREST ON PASS-THROUGH SECURITIES

40100. The association is hereby authorized to guarantee the timely payment of principal of, and of interest on, such securities as shall be based on and backed by a pool composed of mortgages meeting the requirements of Section 40103. In the event any payment of principal of, or interest on, any security guaranteed under this section is not made, the association shall, subject to rules and regulations, make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. Any state law to the contrary notwithstanding, the association is hereby empowered, in connection with any guarantee under this chapter, whether before or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued and to make the mortgages the absolute property of the association. No provision of this part, however, shall create, extinguish, enlarge, or diminish any right or interest of the association with respect to the mortgagor of any mortgage constituting all or part of any such pool, in relationship to the right or interest of the issuer. The guarantee provided under this chapter shall not constitute a debt or obligation of the State of California or any agency or instrumentality thereof other than the association.

40101. (a) A mortgage lender who qualifies as an eligible issuer shall be eligible to issue and service mortgage-backed securities guaranteed by the association.

(b) The association shall not make a commitment to guarantee, or guarantee pursuant to a commitment or otherwise, any issue of

mortgage-backed securities unless the mortgage lender requesting such commitment or guarantee then qualifies as an eligible issuer.

(c) A mortgage lender shall not qualify as an eligible issuer at any time in which the lending policies of the issuer permit any discrimination based on race, religion, color, national origin, marital status, or sex of a borrower.

(d) A mortgage lender shall qualify as an eligible issuer only so long as it conducts its business operations in accordance with accepted mortgage lending practices, ethics, and standards, as determined by the association, and shall maintain its books and records in accordance with generally accepted accounting principles.

(e) In the event that a mortgage lender who has qualified as an eligible issuer should subsequently fail to comply with any of the requirements prescribed in this section, the association may withhold further commitments to guarantee securities until such time as the association is satisfied that the mortgage lender has resumed business operations in compliance with such requirements.

(f) If any issuer, subsequent to the issuance of securities guaranteed by the association, should fail in a material way to be in compliance with any of the requirements prescribed in this section or in the guarantee agreement, the association may bring proceedings to default such issuer, in accordance with the procedures established under this chapter. The association shall serve the issuer, by hand delivery or by certified or registered mail, with a written notice stating the facts incident to such failure and setting forth such affirmative requirements as the association may consider necessary to correct such failure to be in compliance. Steps to correct or otherwise remedy such failure shall be carried out in accordance with such procedures as may be set forth in the guarantee agreement.

40102. (a) Securities to be issued pursuant to the provisions of this section may, at the option of the issuer, be of one of the following types, but only one of such types may be issued against any single pool of mortgages: (1) straight pass-through securities; and (2) modified pass-through securities.

(b) In the case of delinquent mortgages in a pool backing modified pass-through securities, the issuer is required to make advances if necessary to maintain the specified schedule of interest and principal payments to the holders, or at its option, at any time 90 days or more after default of any such mortgage, the issuer may repurchase such mortgage.

(c) Both straight pass-through and modified pass-through securities shall specify the dates by which payments are to be made to the holders thereof, and shall indicate the accounting period for collections on the pool's mortgages relating to each such payment, and the securities shall also specify a date on which the entire principal to be collected will have been paid or will be payable.

(d) Each issue of guaranteed securities shall be in a minimum face

amount of four hundred thousand dollars ($400,000), provided that in the case of modified pass-through securities based on, and backed by, mortgages on mobilehomes or projects, the minimum face amount is two hundred thousand dollars ($200,000). The total face amount of any issue of securities cannot exceed the aggregate unpaid principal balances of the mortgages in the pool.

(e) The face amount of any security shall not be less than twenty-five thousand dollars ($25,000).

(f) Securities are transferable, but the share of the proceeds collected on account of the pool of mortgages may not be payable to more than one holder with respect to any security.

(g) The mortgages comprising a particular pool are not required to have been issued by the same mortgage lender, so long as all such mortgages are originated by eligible issuers.

40103. Each issue of guaranteed securities shall be backed by a separate pool of mortgages which satisfy all of the following requirements:

(a) Are covered by policies of title insurance, hazard insurance, and other types of insurance prescribed by the association, in accordance with the association's regulations.

(b) Will be replaced by the issuer if found defective by the association at any time prior to four months after the date on which the association issues its guarantee of the securities.

(c) Are liens upon residential real estate wholly located within the State of California or upon mobilehomes sited in California.

(d) Meet such other standards of acceptability as may be prescribed by the association.

40104. The association shall not guarantee securities unless the pool arrangement proposed by the issuer satisfactorily provides for all of the following:

(a) Servicing of the mortgages in the pool.

(b) Timely payment of principal and interest, in accordance with the terms of the guaranteed securities.

(c) Notification to the association of an impending default, on the part of the issuer, in adequate time for the association to make timely payments on the securities.

(d) Delivery to a designated custodial agent satisfactory to the association of the mortgage notes or other evidences of indebtedness secured by the mortgages in the pool and protection of the association's interest in all assets in the pool as collateral for its guarantee.

40105. The issuer shall maintain, for the benefit of the association, fidelity bond coverage, acceptable to the association, that assures the faithful performance of the fiduciary responsibilities of the issuer.

40106. (a) With respect to straight pass-through securities the following shall apply:

(1) The association shall guarantee the timely payment to the security holder of the proceeds of principal and interest, as collected, as undertaken in the association's guarantee appearing on the face

of the security.

(2) Any failure or inability of the issuer to make payments as due to the holders of the securities from the proceeds from the pool of mortgages which have been collected, or because of failure to make collections under reasonable and accepted standards of mortgage servicing, shall constitute a default of the issuer.

(b) With respect to modified pass-through securities the following shall apply:

(1) The association shall guarantee the timely payment, whether or not collected, of interest on the outstanding balance and the specified principal installments, as undertaken in the association's guarantee appearing on the face of the security.

(2) Any failure or inability of the issuer to make fixed or other payments as due as well as such other failures as may be identified by the association and included in the guarantee agreement, shall constitute a default of the issuer.

(c) Upon any default by the issuer and payment under its guarantee by the association, or any failure of the issuer to comply wtih the terms of the guarantee agreement, the association may institute a claim against the issuer's fidelity bond, or may pursuant to Section 40100, extinguish all the right, title, or other interest of the issuer in the pooled mortgages, by letter directed to the issuer and making the mortgages the absolute property of the association, subject only to unsatisfied rights therein of the holders of the securities, or the association may do both.

40107. The association shall establish a schedule of application and guarantee fees, which may vary for straight pass-through and modified pass-through issuances, and of such fees as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer.

The association may alter the schedule of fees as it reasonably deems appropriate. To assure that, to the maximum extent, and as rapidly as possible, the association will become self-supporting, the schedule of fees shall be established according to sound business practices such that the proceeds of such fees are sufficient to fund the association's total operating expenses, the guarantee of payment of principal and interest on securities issued pursuant to this chapter, and the repurchase and retirement of outstanding mortgage capital certificates.

40108. Proceeds of fees charged under Section 40107 shall be applied to defray the operating expenses of the association. The remaining proceeds shall be deposited in the Guarantee Reserve Account. When the amount of the Guarantee Reserve Account equals or exceeds five million dollars ($5,000,000), or the minimum Guarantee Reserve Account requirement, whichever is greater, the additional proceeds of fees shall be applied by the association to the purchase of outstanding mortgage capital certificates.

40109. The securities guaranteed by the association pursuant to this chapter shall be legal investments in which all public officers and

public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking institutions, including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, credit unions, industrial loan companies, all administrators, guardians, executors, trustees and other fiduciaries, including without limitation fiduciaries and administrators of pension and retirement plans and funds, and all other persons whomsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The securities guaranteed by the association pursuant to this chapter may be used by any such private financial institution, person, or association as security for public deposits. The securities guaranteed by the association pursuant to this chapter are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law, including deposits to secure public funds.

CHAPTER 4. FINANCIAL PROVISIONS

40150. The association may issue mortgage capital certificates in an amount outstanding at any one time sufficient to enable the association to carry out its functions under this part. The mortgage capital certificates shall mature not more than 20 years from their respective dates of issue and be redeemable at the option of the association before maturity in such manner as may be stipulated in such obligations. Each such mortgage capital certificate shall bear interest at a rate determined by the association. The association is authorized to purchase any of its mortgage capital certificates outstanding under this section at any time and at any price. Mortgage capital certificates issued by the association are legal investments for the funds of insurance companies, banks, savings banks, savings and loan associations, credit unions, and industrial loan companies.

40151. The state does hereby pledge to and agree with the holders of any mortgage capital certificates issued under this part that the state will not limit or alter the rights hereby vested in the association to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of such holders until such mortgage capital certificates, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and

discharged. The association is authorized to include this pledge and agreement of the state in any agreement with the holders of such mortgage capital certificates.

40152. No guarantee issued by the association under the provisions of Chapter 3 (commencing with Section 40100) or mortgage capital certificate issued under the provisions of this chapter shall be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the association, or a pledge of the faith and credit of the state or of any such political subdivision, other than the association, but shall be payable solely from funds herein provided therefor. All such mortgage capital certificates and securities evidencing the association's guarantees and any prospectus or other printed representation of the association concerning such mortgage capital certificates or guarantees shall contain on the face thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this security."

The issuance of mortgage capital certificates and guarantees by the association shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent or be construed to prevent the association from pledging its full faith and credit to the payment of mortgage capital certificates or guarantees or to issue the mortgage capital certificates or guarantees authorized pursuant to this division.

Except as otherwise provided in Section 40060, funds invested in and earned from the mortgage capital certificates shall be subject to all applicable taxation.

40153. Proceeds derived from the issuance of mortgage capital certificates and any interest or other increment derived from the investment thereof may be used for any of the purposes of the association, including, but not limited to, operating costs, payments into the Guarantee Reserve Account, and other expenses.

40154. There is hereby created in the State Treasury the California Home Loan Mortgage Fund. All moneys collected or received by the association under this part shall be deposited in this fund.

40155. The association shall create and establish a special account in the California Home Loan Mortgage Fund which shall be known as the "Operating Account" which shall be used to defray salaries and all other operating expenses.

40156. (a) The association shall create and establish a special account in the California Home Loan Mortgage Fund, which shall be known as the "Guarantee Reserve Account" and shall pay into the Guarantee Reserve Account (1) any proceeds from the sale of mortgage capital certificates to the extent such proceeds are not applied to the association's operating costs, (2) moneys charged as

fees by the association under Section 40107 and to the extent such moneys are not applied to the association's operating costs, and (3) any other moneys which the association may make available for the purpose of the Guarantee Reserve Account from any other source or sources; provided, however, that payments into the Guarantee Reserve Account are not required by this section whenever the amount of the Guarantee Reserve Account equals or exceeds the minimum Guarantee Reserve Account requirement.

All moneys held in the Guarantee Reserve Account, except as otherwise provided in this part, shall be used, as required, solely for the payment of principal and interest on securities guaranteed by the association pursuant to Chapter 3 (commencing with Section 40100). Any income or interest earned by, or increment to the Guarantee Reserve Account due to the investment thereof may be transferred by the association to other funds or accounts of the association to the extent such transfer does not reduce the amount of the Guarantee Reserve Account below the minimum Guarantee Reserve Account requirement.

In computing the amount of the Guarantee Reserve Account for purposes of this section, securities in which all or a portion of the Guarantee Reserve Account is invested shall be valued at par, if purchased at par, and shall be valued at amortized value, as such term is defined by resolution of the association, if purchased at other than par.

(b) For each issue of securities guaranteed by the association pursuant to Chapter 3 (commencing with Section 40100), the association shall determine according to sound actuarial and business practices the amount, if any, by which the Guarantee Reserve Account should be increased to ensure the continued payment of principal and interest on such securities in the event of default by the issuer. This amount shall be set forth in the resolution or resolutions of the association authorizing the guarantee of such issue of securities.

(c) The association shall not at any time guarantee the payment of principal and interest on securities issued pursuant to Chapter 3 (commencing with Section 40100) if, upon issuance of the securities, the amount in the Guarantee Reserve Account will be less than the minimum Guarantee Reserve Account requirement.

40157. The association shall create and establish such other accounts in the California Home Loan Mortgage Fund as it may deem necessary or desirable.

40158. Moneys of the association not invested in operating facilities shall be kept in cash on hand or on deposit or invested in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(Next Page is 2246)

CHAPTER 500

An act to amend Sections 5621, 5624, 5626, and 5627 of the Public Resources Code, relating to open-space and recreation programs, and making an appropriation therefor.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Section 5621 of the Public Resources Code is amended to read:

5621. As used in this chapter:

(a) "City" includes the City and County of San Francisco; "county" does not include the City and County of San Francisco.

(b) "Districts" means regional park districts formed under Article 3 (commencing with Section 5500) of Chapter 3, and recreation and park districts formed under Chapter 4 (commencing with Section 5780), of this division; and any public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; and the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code.

(c) "Urbanized area" consists of a central city or cities and surrounding closely settled territory, as determined by the Department of Parks and Recreation in cooperation with the Department of Finance on the basis of the most recent verifiable census data. "Urbanized county" means any county, except the City and County of San Francisco, with a population of 200,000 or more, as determined by the Department of Parks and Recreation in cooperation with the Department of Finance on the basis of the most recent verifiable census data.

(d) "Heavily urbanized area" means a large city with a population of 300,000 or more and a large county or regional park district with a population of 1,000,000 or more, as determined by the Department of Parks and Recreation in cooperation with the Department of Finance on the basis of the most recent verifiable census data.

(e) "Nonurbanized area" means any city, county, or district which does not qualify as an urbanized area or urbanized county under the definitions set forth in subdivision (c) of this section.

(f) "Block grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities.

(g) "Need basis grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities on a project-by-project basis, based upon need.

(h) "Account" means the Roberti-Z'berg Urban Open-Space and Recreation Program Account in the General Fund.

SEC. 2. Section 5624 of the Public Resources Code is amended to read:

5624. (a) The program established by this chapter shall be administered by the Department of Parks and Recreation.

(b) The Roberti-Z'berg Urban Open-Space and Recreation Program Account is hereby created in the General Fund and the money therein is hereby continuously appropriated, without regard to fiscal years, to the department for the program established by this chapter and funded pursuant to Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and Section 4 of Chapter 1166 of the Statutes of 1979, and pursuant to statutes enacted subsequent thereto that appropriate funds for this program.

(c) The unallocated balance in the General Fund appropriated pursuant to Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and Section 4 of Chapter 1166 of the Statutes of 1979 is hereby transferred to the account.

SEC. 3. Section 5626 of the Public Resources Code is amended to read:

5626. (a) The property acquired or developed pursuant to this chapter shall be used by the grant recipient only for the purpose for which the grant moneys were requested and no other use of the area shall be permitted except by the specific act of the Legislature. Any project funded with grant moneys received pursuant to this chapter shall conform to the recreation element of any applicable city or county general plan.

(b) Notwithstanding Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Section 5627, 5628, 5629, or 5630, or any other provisions of law, jurisdictions eligible to receive need basis or block grant moneys pursuant to this chapter shall have one year from the effective date of each act appropriating grant moneys to apply for such grant moneys. Such moneys that are not applied for during the one-year period shall be allocated by the department pursuant to subdivision (b) of Section 5630 during the succeeding fiscal year as grants to cities and recreation and park districts in urbanized areas on a project-by-project basis and on the basis of need.

(c) (1) Grant moneys shall be encumbered by the recipient of such moneys within three years of the date of approval by the director of the application for such moneys. Any part of grant moneys not encumbered within the three-year period shall revert to the unallocated balance in the account and may be reallocated by the department pursuant to subdivision (b) of Section 5630 not later than the end of the next succeeding fiscal year.

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, grant moneys appropriated by Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and Section 4 of Chapter 1166 of the Statutes of 1979, if the grant application is approved by the director prior to September 17, 1980, may be

encumbered within three years of the date of grant approval or by December 31, 1981, whichever date is later.

(d) The legal counsel of the grant recipient shall certify to the department that the grant recipient has met, or will meet, all federal, state, and local environmental, public health, relocation, affirmative action, and clearinghouse requirements and all other appropriate codes, laws, and regulations prior to the expenditure of the grant funds.

SEC. 4. Section 5627 of the Public Resources Code is amended to read:

5627. (a) Grant moneys received pursuant to this chapter shall be expended for high-priority projects that satisfy the most urgent park and recreation needs, with emphasis on unmet needs in the most heavily populated and most economically disadvantaged areas within each jurisdiction.

(b) Notwithstanding Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, Section 5627, 5628, 5629, or 5630, or any other provisions of law, 2 percent of need basis and block grant moneys appropriated by Item 222 of the Budget Act of 1978, Item 235 of the Budget Act of 1979, and any act enacted subsequent thereto may be expended by the recipient for innovative recreational programs for the handicapped and up to 31 percent of such moneys may be expended by the recipient for the operation and maintenance of recreational lands and facilities that are acquired or developed with such grant moneys or for innovative recreational programs. Such moneys may be expended only for operation and maintenance costs not fully compensated for by revenues generated by such lands or facilities. Recipients of grant moneys that are to be used for operation and maintenance shall examine alternative methods to finance the operation and maintenance of recreational lands and facilities.

For the purposes of this section, "operation and maintenance costs" are limited to the direct costs of operating and maintaining recreational lands and facilities and in no case shall include administrative costs.

For the purposes of this section, "innovative recreational programs" means projects which involve new and imaginative techniques for meeting special recreational needs or that appear to be particularly promising in terms of promoting self-sufficiency, personal development, and leadership skills of the elderly, handicapped, mentally retarded, and others who have special recreational requirements. The expenditure of grant funds for innovative recreation programs is not limited to public recreational lands and facilities previously funded under this program.

(c) Grants to cities, counties, and districts pursuant to this chapter shall be on the basis of 75 percent state money and 25 percent local matching money for the project. Grants for acquisition shall be matched only by money or property donated to be part of the acquisition project. Grants for development may be matched by monetary contributions or, if nonmonetary contributions, as provided in regulations and standards which shall be established by

the director after a public hearing.

(d) The grant recipient shall certify to the department that there is available, or will become available prior to the commencement of any work on the project for which application for a grant has been made, matching money from a nonstate source. Such certification of the source and amount of such funds shall be set forth in the application for a grant submitted to the department. Local matching money shall not be required with respect to a grant recipient that has urgent unmet needs for recreational lands and lacks the financial resources to acquire recreational lands, as determined pursuant to a formula set forth in regulations adopted by the Director of Parks and Recreation after a public hearing.

(e) Criteria, rules, and procedures for the expenditure of grant moneys for operation and maintenance costs or for innovative recreational programs shall be established by the director after a public hearing. Such criteria, rules, and procedures shall ensure that grant moneys shall be used to supplement rather than to supplant local revenues that are generated by recreational facilities and lands.

CHAPTER 501

An act to add Chapter 5.65 (commencing with Section 2585) to Division 2 of the Business and Professions Code, relating to dietitians.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Chapter 5.65 (commencing with Section 2585) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.65. DIETITIANS

2585. (a) Any person representing himself or herself as a dietitian shall meet one of the following qualifications:

(1) Been granted, prior to January 1, 1981, the right to use the term "dietitian" by a public or private agency or institution recognized by the State Department of Health Services as qualified to grant that title, provided that person continues to meet all requirements and qualifications periodically prescribed by the agency or institution for the maintenance of that title.

(2) Possess all of the following qualifications:

(A) Be 18 years of age or older.

(B) Satisfactory completion of appropriate academic requirements for the field of dietetics and related disciplines and receipt of a baccalaureate or higher degree from a college or university accredited by the Western Association of Schools and Colleges or other regional accreditation agency.

(C) Satisfactory completion of a program of supervised clinical

experience of not less than six months in length that is designed to prepare entry level practitioners through instruction and assignments in a clinical setting. Supervisors of the program shall meet minimum qualifications established by public or private agencies or institutions recognized by the State Department of Health Services to establish such qualifications.

(b) Any person representing himself or herself as a registered dietitian shall meet the following qualifications:

(1) Been granted, prior to January 1, 1981, the right to use the term "registered dietitian" by a public or private agency or institution recognized by the State Department of Health Services as qualified to grant such title, provided that person continues to meet all requirements and qualifications periodically prescribed by the agency or institution for the maintenance of that title.

(2) Possess all of the following qualifications:

(A) Satisfactory completion of the requirements set forth in subdivision (a).

(B) Satisfactory completion of an examination administered by a public or private agency or institution recognized by the State Department of Health Services as qualified to administer the examinations.

(C) Satisfactory completion of continuing education requirements established by a public or private agency or institution recognized by the State Department of Health Services to establish the requirements.

(c) It is a misdemeanor for any person not meeting the criteria of subdivision (a) or (b) to use, in connection with his or her name or place of business, the words "dietitian," "dietician," "registered dietitian," "registered dietician," or the letters "D," "RD," or any other words, letters, abbreviations, or insignia indicating or implying that the person is a dietitian, or registered dietitian, or to represent, in any way, orally, in writing, in print or by sign, directly or by implication, that he or she is a dietitian or a registered dietitian.

(d) Any person employed by a licensed health care facility as a registered dietitian on the effective date of this chapter may continue to represent himself or herself as a registered dietitian while employed by a licensed health care facility, if he or she has satisfied the requirements of either paragraph (1) or paragraph (2) of subdivision (b), except that he or she shall not be required to satisfy the examination requirement of subparagraph (B) of paragraph (2) of subdivision (b).

2586. (a) Notwithstanding any other provision of law, a registered dietitian meeting the qualifications set forth in Section 2585 may, upon referral by a health care provider authorized to prescribe dietary treatments, provide nutritional and dietary counseling, conduct nutritional and dietary assessments, and develop nutritional and dietary treatments, including therapeutic diets, for individuals or groups of patients in licensed institutional facilities or in private office settings. The referral shall be accompanied by a written prescription signed by the health care provider detailing the patient's diagnosis and including a statement of the desired objective

of dietary treatment.

(b) It is a misdemeanor for a registered dietitian to practice in a manner inconsistent with the requirements set forth in this section.

(c) Nothing in this section shall preclude a registered dietitian from providing information as permitted by Section 2068.

(d) For purposes of this section, "health care provider" means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act.

(e) The requirement of a written prescription shall be deemed to be satisfied by an entry in the patient records of a patient who is undergoing treatment at a licensed health care facility if the contents of the patient records reflect the information required by this section.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 502

An act to add and repeal Part 12.5 (commencing with Section 15925) of Division 3 of Title 2 of the Government Code, and to amend, repeal, and add Section 17204 of the Revenue and Taxation Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 12, 1982.]

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

SECTION 1. Part 12.5 (commencing with Section 15925) is added to Division 3 of Title 2 of the Government Code, to read:

PART 12.5. RIDESHARING

15925. This part shall be known and may be cited as the "Rideshare Support and Improvement Act."

15926. The Legislature hereby finds and declares that:

(a) The national security and economic prosperity of the United States is threatened by a heavy dependence upon energy imports.

(b) The economy of California and the economic well-being of its citizens are threatened by this dependence.

(c) The Legislature has the responsibility and duty to devise policies to reduce this dependence by increasing the energy efficiency of our transportation system.

(d) Inflation is undermining the financial feasibility of expanding capacity and making needed improvements to state highways and local streets and roads.

(e) Motor vehicles are the major mode of transportation in California.

(f) The transportation sector, particularly with respect to the use of private automobiles, is significantly energy inefficient.

(g) Nonessential and inefficient utilization of private automobiles has resulted in all of the following:

(1) Waste of precious fuel resources by inefficiently moving travelers to common destinations, particularly workers going from their residences to their places of employment.

(2) An increase in automotive pollution and a corresponding risk to public health.

(3) An increase in traffic congestion which wastes gasoline by lowering the average speed of vehicles.

(h) Ridesharing, in its many forms such as carpooling, vanpooling, buspooling, public transit, and shared-ride taxis, has been demonstrated to result in significant energy savings without a significant decrease in the quality of personal lifestyles.

(i) Present ridesharing assistance service projects have not been tapped to their full potential for environmental, economic, and energy conservation benefits due to inadequate funding.

(j) Benefits which would stem from aggressive and sustained efforts to promote and encourage ridesharing in its many forms include:

(1) Reductions in transportation-related energy consumption, air pollution, and highway congestion.

(2) Reduced need for additional capacity on existing state highway and local streets and roads systems.

(3) Reduced dependency on foreign sources of oil.

(4) Increases in disposable income available to California citizens for nontransportation-related purposes.

(5) Increases in consumer transportation choice and mobility, especially in times of gasoline shortages.

(6) Stimulation of local and regional economies due to shifts in consumer spending from extractive to nonextractive goods and services.

(k) These benefits will be maximized by close cooperation and interaction between employers, transportation planning and implementation agencies, and providers of ridesharing assistance services.

(*l*) Therefore, it is necessary to provide adequate funding for the establishment and support of effective ridesharing programs in both urbanized and nonurbanized areas throughout the state.

15927. It is the intent of the Legislature, in enacting this part, to:

(a) Promote and facilitate availability and use of alternatives to the single-occupant motor vehicle for both work and nonwork trips.

(b) Establish effective multiyear ridesharing assistance service demonstration projects in urbanized and nonurbanized areas where none exist and support and enhance existing projects.

15928. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this part.

(a) "County transportation commission" means a commission created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code.

(b) "Department" means the Department of Transportation.

(c) "Fund" means the Ridesharing and Alternative Transportation Fund.

(d) "Ridesharing" means travel by any mode other than the single-occupant motor vehicle, including, but not limited to, carpooling, vanpooling, public or private buspooling, subscription taxipool, and public transit, either in mixed-flow traffic or on exclusive high-occupancy vehicle facilities.

(e) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of the driver.

(f) "Ridesharing assistance services" means services provided to public or private employers and individual citizens which facilitate formation of ridesharing arrangements or other modes of travel other than the single-occupant motor vehicle. The assistance may be provided by state or local governmental entities or private third-party entities. Ridesharing assistance services include, but are not limited to, dial-in matching assistance, employer matching assistance, outreach efforts, and coordination of efforts with other public and private entities.

(g) "Secretary" means the Secretary of Business, Transportation and Housing Agency.

15929. The Ridesharing and Alternative Transportation Fund is hereby created in the State Treasury and the money therein is continuously appropriated to the secretary for purposes of this part.

15930. The funds appropriated pursuant to Section 15929 shall be allocated by the secretary as follows:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund and for its statewide ridesharing planning responsibilities. The allocation under this subdivision shall not exceed 1 percent of the total funds appropriated for the purposes of this part.

(b) To each transportation planning agency, each county transportation commission, and the San Diego Metropolitan Transit Development Board for the planning and implementation of ridesharing programs, an amount determined on the basis of the following two equally weighted factors:

(1) The population of the area under the jurisdiction of the entity to the total state population.

(2) The population of the urbanized areas under the jurisdiction of the entity to the total state population in urbanized areas.

The allocation for purposes of this subdivision shall not be less than 85 percent of the total funds appropriated for the purposes of this part.

(c) Funds not allocated under subdivision (a) or (b) shall be allocated to the department for the planning and implementation of

The secretary shall allocate any moneys appropriated for the Ridesharing and Alternative Transportation Fund, which are not transferred pursuant to subdivisions (a) and (d) of Section 5 of the act that added this section to the Government Code, only with the approval of the California Transportation Commission.

To the maximum extent possible, funds allocated pursuant to subsection (b) of this section shall be used for implementing ridesharing programs rather than planning and related functions.

15931. (a) In the case of a transportation planning agency with county transportation commissions within its area of jurisdiction, the allocation to the transportation planning agency shall be determined by excluding the areas also under the jurisdiction of the county transportation commission.

(b) In the case of a transportation planning agency with the San Diego Metropolitan Transit Development Board within its area of jurisdiction, the allocation to the transportation planning agency shall be determined by excluding the area also under the jurisdiction of the board.

15932. Eligible claimants of funds allocated pursuant to this part shall include any public entity or private nonprofit entity with authority to administer ridesharing programs or projects involving expenditure of federal aid highway funds, urban mass transportation assistance, or state transportation funds available for ridesharing purposes.

Within metropolitan areas, in order to coordinate with other ongoing related planning activities, the programming of planning funds shall be made a part of the transportation planning process.

15933. Funds allocated under this part for ridesharing assistance services shall be programmed and allocated by transportation planning agencies, county transportation commissions, the San Diego Metropolitan Transit Development Board, and the department pursuant to existing laws and regulations relating to the transportation planning and programming process. In addition, the funds shall be allocated to the maximum extent possible to support providers of ridesharing assistance services and not to the above entities for other purposes even though the purposes may be related to ridesharing in general.

15934. This part shall not result in adverse impacts on the funding of programs eligible for funding from the Transportation Planning and Development Account in the State Transportation Fund prior to January 1, 1982.

15935. A transportation planning agency, a county transportation commission, the San Diego Metropolitan Development Board, or the department shall not allocate funds to a claimant pursuant to Section 15933, unless it first makes all of the following findings:

(a) That the proposed ridesharing program is consistent with the regional transportation plan and has been developed in cooperation with the department, providers of ridesharing services, operators of publicly owned transit systems, owners and operators of taxi services,

and appropriate representatives of the private sector.

(b) That the proposed ridesharing program has been developed in a manner which will ensure that the various modes of ridesharing are implemented in a complementary rather than competitive manner. Carpooling, vanpooling, buspooling, and high-occupancy vehicle programs shall be developed with the full coordination of, and participation by, the operators of publicly owned transit systems.

(c) That funds allocated under this part will not be used for construction of high-occupancy vehicle facilities or the purchase or operation of public transit vehicles or vans, but that the proposed ridesharing program is closely coordinated at state, regional, and local levels with the planning of high-occupancy vehicle facilities and public transit programs.

(d) That funds allocated under this part will be used to the maximum extent feasible to support existing providers of ridesharing assistance services and will not result in wasteful duplication of efforts by existing or new entities.

(e) That the proposed ridesharing program will encourage but not require or coerce employers or employees to sponsor or participate in ridesharing programs or arrangements.

15936. (a) The Legislative Analyst shall, commencing not later than October 1, 1985, conduct an investigation of the effectiveness of ridesharing programs throughout the state with respect to all of the following:

(1) Increasing vehicle occupancy during peak and nonpeak hours.

(2) Reducing gasoline consumption.

(3) Reducing air pollution attributable to vehicular sources.

(4) Increasing the disposable income for nontransportation-related purposes of individuals who rideshare.

(5) Effects on automobile ownership of individuals who rideshare.

(6) Direct and economic effects of ridesharing programs on local and state economies.

(b) Not later than January 1, 1986, the Legislative Analyst shall submit to the Legislature the findings of the investigation which shall include a recommendation as to whether this part should be extended, amended, or repealed.

15939. This part shall remain in effect only until July 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1988, deletes or extends such date.

SEC. 2. Section 17204 of the Revenue and Taxation Code is amended to read:

17204. (a) Except as otherwise provided in this section and Section 17205, the following taxes and assessments shall be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes, less any amounts received from the state pursuant to the authorization contained in Section 1d of Article XIII of the Constitution.

(2) State and local personal property taxes.

(3) State and local general sales taxes.

(4) (A) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels as provided in this paragraph.

(B) (i) The Franchise Tax Board shall establish a schedule of deductions which is substantially the same as the California State Gasoline Tax Guide as published in the 1980 Form 540 Individual Income Tax Instructions, subject to the limitation specified in subparagraph (C).

(ii) The schedule shall remain in effect until such time as the existing seven cents ($.07) per gallon state gasoline tax is changed.

(iii) At such time as the state gasoline tax is changed, the Franchise Tax Board may establish a new schedule of deductions which substantially conforms to the existing schedule in that the allowable deduction is approximately proportional to the number of miles driven, except that, in areas of the state specified in subparagraph (C), no additional deduction shall be allowed for miles driven in excess of 15,000 per year per return.

(C) For taxpayers who reside in urban areas which do not meet the national ambient air quality standards for carbon monoxide or ozone pursuant to requirements of the National Clean Air Act, as amended (42 U.S.C. 7401 et seq.), the deduction claimed under subparagraph (A) shall not exceed eighty-four dollars ($84) per year per return filed. At that time as the state gasoline tax is changed, the maximum allowable deduction shall be proportionately adjusted to reflect the change.

This deduction limitation shall be applicable to the following areas which fail to meet national ambient air quality standards for carbon monoxide or ozone: the South Coast Air Basin; the San Francisco Bay Area Air Basin; the San Diego Air Basin; the Ventura County portion of the South Central Coast Air Basin; the Sacramento urbanized area; and the Fresno County portion of the San Joaquin Air Basin. This limitation shall also be applicable to any area which subsequently fails to meet national ambient air quality standards for carbon monoxide or ozone as determined by the State Air Resources Board. For purposes of this subparagraph, a taxpayer's place of residence shall be his or her principal place of residence as of April 15 of the taxable year for which the deduction is being claimed.

(D) Subparagraph (C) shall have no force or effect in any area specified in that subparagraph after such time as the State Air Resources Board finds that the area meets the national ambient air quality standards for carbon monoxide and ozone.

(E) In addition to the deduction for taxes on gasoline, diesel fuel, and other motor fuels as provided for in subparagraph (B) or (C), as applicable, there shall be allowed a ridesharing tax deduction for either or both of the following:

(i) The cost of monthly transit passes purchased for use by the taxpayer, or for use principally in this state by dependents listed on the return, except that no deduction shall be allowed for transit passes issued for the use of or used by elementary and secondary

school students traveling to and from school. In the case of a husband and wife filing a joint return, the deduction provided by this clause shall be allowed to each spouse if a monthly transit pass is purchased by each spouse. The deduction shall be for the cost of each pass purchased, but shall not exceed seven dollars ($7) per month for each pass for any taxable year. For purposes of this clause, "monthly transit passes" means any single purchase of transit rides that entitles the purchaser to 40 or more rides per month (whether at a discount or at the base fare rate) within this state where evidence of purchase is furnished to the purchaser. For purposes of this clause, "transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(ii) The cost of participation principally in this state, by the taxpayer or any dependent listed on the return, in a private, third-party or employer-sponsored vanpool, buspool, or subscription taxipool. The deduction shall be allowed for the cost of participation to each vanpool, buspool, or subscription taxipool participant, but shall not exceed seven dollars ($7) per month for each person for any taxable year. For purposes of this clause, "vanpool" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to 15 passengers; "buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 passengers; "subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily fare basis, following a relatively fixed route tailored to meet the needs of the subscribers; and "third-party vanpool" means a vanpool that is not administered and operated by an employer or his or her employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.

(5) Standby or availability charges or special taxes for fire suppression and police protection services imposed pursuant to Chapter 397 of the Statutes of 1979.

In addition, there shall be allowed as a deduction state and local, and foreign, taxes not described in this subdivision which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in Section 17252 (relating to expenses for production of income).

(b) For purposes of this section and Section 17205—

(1) "Personal property tax" means an ad valorem tax which is imposed on an annual basis in respect of personal property, and for the purpose of allowing a deduction under this part, includes, but is not limited to, fees imposed as an excise tax under Section 10751 of

the Revenue and Taxation Code.

(2) (A) "General sales tax" means a tax imposed at one rate in respect of the sale at retail of a broad range of classes of items.

(B) In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) The fact that the tax does not apply in respect of some or all of such items shall not be taken into account in determining whether the tax applies in respect of a broad range of classes of items, and

(ii) The fact that the rate of tax applicable in respect of some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(C) Except in the case of a lower rate of tax applicable in respect of an item described in subparagraph (B), no deduction shall be allowed under this section for any general sales tax imposed in respect of an item at a rate other than the general rate of tax.

(D) A compensating use tax in respect of an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term "compensating use tax" means, in respect of any item, a tax which—

(i) Is imposed on the use, storage, or consumption of such item, and

(ii) Is complementary to a general sales tax, but only if a deduction is allowable under subdivision (a) (3) in respect of items sold at retail in the taxing jurisdiction which are similar to such item.

(3) A state or local tax includes only a tax imposed by a state, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(4) A foreign tax includes only a tax imposed by the authority of a foreign country.

(5) If the amount of any general sales tax or of any tax on the sale of gasoline, diesel fuel, or other motor fuel is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(c) No deduction shall be allowed for the following taxes:

(1) Taxes paid or accrued to the state under this part.

(2) Taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of any of the following:

(A) The government of the United States or any foreign country.

(B) Any state, territory, county, city and county, school district, municipality, or other taxing subdivision of any state or territory.

(C) Taxes imposed by authority of the government of the United States include—

(i) The tax imposed by Section 3101 of the Internal Revenue Code of 1954 (relating to the tax on employees under the Federal Insurance Contributions Act);

(ii) The taxes imposed by Sections 3201 and 3211 of the Internal Revenue Code of 1954 (relating to the taxes on railroad employees and railroad employee representatives); and

(iii) The tax withheld on wages under Section 3402 of the Internal Revenue Code of 1954.

(3) Federal war profits and excess profits taxes.

(4) Estate, inheritance, legacy, succession, and gift taxes.

(5) Taxes computed as an addition to, or as a percentage of, taxes which are not deductible under this section.

(6) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

(7) Taxes on real property, to the extent that Section 17205 requires such taxes to be treated as imposed on another taxpayer.

(8) Taxes imposed by Sections 4971–4975 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to excise taxes on prohibited transactions and contributions).

(d) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date, and shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1982, and ending on or before December 31, 1987.

SEC. 3. Section 17204 is added to the Revenue and Taxation Code, to read:

17204. (a) Except as otherwise provided in this section and Section 17205, the following taxes and assessments shall be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes, less any amounts received from the state pursuant to the authorization contained in Section 1d of Article XIII of the Constitution.

(2) State and local personal property taxes.

(3) State and local general sales taxes.

(4) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels.

(5) Standby or availability charges or special taxes for fire suppression and police protection services imposed pursuant to Chapter 397 of the Statutes of 1979.

In addition, there shall be allowed as a deduction state and local, and foreign, taxes not described in this subdivision which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in Section 17252 (relating to expenses for production of income).

(b) For purposes of this section and Section 17205—

(1) "Personal property tax" means an ad valorem tax which is imposed on an annual basis in respect of personal property, and for

the purpose of allowing a deduction under this part, includes, but is not limited to, fees imposed as an excise tax under Section 10751 of the Revenue and Taxation Code.

(2) (A) "General sales tax" means a tax imposed at one rate in respect of the sale at retail of a broad range of classes of items.

(B) In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) The fact that the tax does not apply in respect of some or all of such items shall not be taken into account in determining whether the tax applies in respect of a broad range of classes of items, and

(ii) The fact that the rate of tax applicable in respect of some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(C) Except in the case of a lower rate of tax applicable in respect of an item described in subparagraph (B), no deduction shall be allowed under this section for any general sales tax imposed in respect of an item at a rate other than the general rate of tax.

(D) A compensating use tax in respect of an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term "compensating use tax" means, in respect of any item, a tax which—

(i) Is imposed on the use, storage, or consumption of such item, and

(ii) Is complementary to a general sales tax, but only if a deduction is allowable under subdivision (a) (3) in respect of items sold at retail in the taxing jurisdiction which are similar to such item.

(3) A state or local tax includes only a tax imposed by a state, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(4) A foreign tax includes only a tax imposed by the authority of a foreign country.

(5) If the amount of any general sales tax or of any tax on the sale of gasoline, diesel fuel, or other motor fuel is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(c) No deduction shall be allowed for the following taxes:

(1) Taxes paid or accrued to the state under this part.

(2) Taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of any of the following:

(A) The government of the United States or any foreign country.

(B) Any state, territory, county, city and county, school district, municipality, or other taxing subdivision of any state or territory.

(C) Taxes imposed by authority of the government of the United States include—

(i) The tax imposed by Section 3101 of the Internal Revenue Code

of 1954 (relating to the tax on employees under the Federal Insurance Contributions Act);

(ii) The taxes imposed by Sections 3201 and 3211 of the Internal Revenue Code of 1954 (relating to the taxes on railroad employees and railroad employee representatives); and

(iii) The tax withheld on wages under Section 3402 of the Internal Revenue Code of 1954.

(3) Federal war profits and excess profits taxes.

(4) Estate, inheritance, legacy, succession, and gift taxes.

(5) Taxes computed as an addition to, or as a percentage of, taxes which are not deductible under this section.

(6) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

(7) Taxes on real property, to the extent that Section 17205 requires such taxes to be treated as imposed on another taxpayer.

(8) Taxes imposed by Sections 4971–4975 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to excise taxes on prohibited transactions and contributions).

(d) This section shall become operative on January 1, 1988, and shall be applicable in the computation of taxes for taxable years beginning on and after January 1, 1988.

SEC. 4. The Legislature hereby finds and declares as follows:

(a) Existing levels of carbon monoxide and ozone pollution seriously decrease the air quality in six of 14 air basins in the State of California, and thus pose a threat to the health and well-being of residents of those basins.

(b) The consumption of gasoline, diesel fuel, and other motor vehicle fuels is the major contributor to carbon monoxide and ozone air pollution in these basins.

(c) It is in the public interest to reduce such fuel consumption, both for purposes of air quality and energy conservation.

(d) The single-occupant automobile is an especially energy-inefficient mode of transportation and significantly contributes to carbon monoxide and ozone air pollution in these air basins.

(e) Therefore, it is in the public interest that incentives to utilize more energy-efficient transportation modes be provided to taxpayers and their dependents whose predominant mode of transportation is currently the single-occupant automobile.

SEC. 5. (a) For the 1982–83 fiscal year, the sum of six million dollars ($6,000,000) in increased revenues anticipated as a result of the provisions of Section 2 of this act shall be transferred from the General Fund to the Ridesharing and Alternative Transportation Fund established by Section 1 of this act.

(b) On July 1, 1983, the Controller shall transfer six million dollars

($6,000,000) from the General Fund to the Ridesharing and Alternative Transportation Fund established by Section 1 of this act in anticipation of increased revenues as a result of the provisions of Section 2 of this act.

(c) On May 1, 1984, and on every May 1 thereafter, through May 1, 1988, the Franchise Tax Board shall provide to the Controller an estimate of the net revenue gain to the General Fund resulting from the amendments to Section 17204 of the Revenue and Taxation Code made by Section 2 of this act. The estimate shall include, but is not limited to, all of the following:

(1) An estimate of the revenue gain or loss to the General Fund which would have resulted if Section 2 of this act had not been enacted.

(2) A separate estimate of the revenue gain or loss to the General Fund resulting from each of the following provisions of Section 17204 of the Revenue and Taxation Code contained in Section 2 of this act:

(A) Subparagraph (B) of paragraph (4) of subdivision (a).

(B) Subparagraph (C) of paragraph (4) of subdivision (a).

(C) Subparagraph (E) of paragraph (4) of subdivision (a).

(d) On July 1, 1984, and on every July 1 thereafter, through July 1, 1987, the Controller shall transfer each fiscal year from the General Fund to the Ridesharing and Alternative Transportation Fund an amount equal to the net anticipated gain to the General Fund resulting from the provisions of Section 2 of this act, as estimated by the Franchise Tax Board pursuant to subdivision (c). The transfer shall not exceed six million dollars ($6,000,000) in any fiscal year.

SEC. 6. (a) The Franchise Tax Board, in cooperation with the Energy Resources Conservation and Development Commission, shall, after one or more public hearings, prescribe regulations as may be necessary to carry out the provisions of Section 2 of this act.

(b) The Franchise Tax Board shall report to the Legislature on or before October 1, 1984, on the effects of Section 2 of this act, including any revenue losses resulting therefrom and the number and categories of claims filed for deductions pursuant thereto. In cooperation with the Franchise Tax Board, the Energy Conservation and Development Commission shall report to the Legislature on or before October 1, 1984, on any energy savings resulting from Sections 1 and 2 of this act.

CHAPTER 503

An act to add and repeal Section 18212.2 of the Financial Code, relating to industrial loan companies.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 13, 1982.]

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

SECTION 1. Section 18212.2 is added to the Financial Code, to read:

18212.2. In addition to the charges authorized by Section 18212 or 18212.1 a licensee may contract for and receive an acquisition fee, which shall be fully earned immediately upon making the loan, with respect to a loan of a principal amount of not more than two thousand five hundred dollars ($2,500) at a rate not in excess of 5 percent of the principal amount or fifty dollars ($50), whichever is lesser. Only one acquisition fee may be contracted for or received until the loan has been repaid in full. No acquisition fee may be contracted for or received in connection with refinancing a loan with respect to which an acquisition fee has been received.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed.

CHAPTER 504

An act to amend Section 7155 of the Financial Code, relating to loans.

[Approved by Governor July 12, 1982. Filed with Secretary of State July 13, 1982.]

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

SECTION 1. Section 7155 of the Financial Code is amended to read:

7155. An association may make loans on the security of unimproved real property in an amount not in excess of the following amounts:

(a) Seventy percent of the appraised value for an initial or extended term which either singly or in the aggregate may not exceed 10 years, after which the loan may not be further extended and may be refinanced or modified only with an amortized loan.

(b) Seventy-five percent of the appraised value for a term of not to exceed 10 years, if the real property is a building lot or site or building lots or sites, ready for the construction on each such building lot or site of a structure designed for residential use for one family or, if the property is a site for the construction of a mobilehome park development as defined in Section 7187.1. Such loan may be extended for an additional period not in excess of three years, provided interest on the loan is then current and the outstanding balance of the loan is or has been reduced to an amount not in excess of 75 percent of the current appraised value of the security property. No loan shall be made under the sole authority of this subdivision if the aggregate amount of such loan and of the balance of all

outstanding loans made pursuant to the provisions of this subdivision exceeds 5 percent of the association's assets.

(c) Seventy-five percent of the appraised value for a term of not to exceed 10 years, if the real property is a building lot or site ready for construction of a structure designed for residential use for one family. Each loan made pursuant to the provisions of this subdivision shall provide for equal, or substantially equal, monthly payments of principal and interest, or equal monthly payments of principal with interest payable monthly on the unpaid balance, beginning not more than 60 days after disbursement of the loan, sufficient to amortize at least 40 percent of the original principal amount of the loan prior to the end of the loan term. The borrower, including a purchaser who assumes the loan, shall execute a certification in writing stating that no lien or charge on such property, other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan or liens in favor of any public entity or authority to secure payment of taxes, assessments or similar items, has been given or executed by the borrower or has been contracted or agreed to be so given or executed by the borrower or has been contracted or agreed to be so given or executed. The borrower shall further certify in writing that:

(1) It is his intention that the lot which is security for the loan will be the site for construction of his permanent home and is not a site for a seasonal or vacation home, and

(2) Such borrower does not own and is not purchasing any other lot intended to be the site for construction of his permanent home.

CHAPTER 505

An act to amend Sections 31208, 31258, 31351, 31352, and 31354 of, and to add Sections 31104.2, 31115.5, and 31251.2 to, the Public Resources Code, relating to the State Coastal Conservancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 13, 1982. Filed with Secretary of State July 13, 1982.]

I am deleting the appropriation language contained in Section 9 of Assembly Bill No. 523.

This bill does not extend the current eligibility for local government reimbursement in connection with the local coastal program process. The inclusion of Section 9 in AB 523 is therefore inappropriate.

With this deletion, I approve Assembly Bill No. 523.

EDMUND G. BROWN JR., Governor

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

SECTION 1. Section 31104.2 is added to the Public Resources Code, to read:

31104.2. The conservancy is the designated agency in the state for planning and coordinating federal surplus land sales in the coastal zone.

SEC. 2. Section 31115.5 is added to the Public Resources Code, to read:

31115.5. Notwithstanding any other provision of law, the conservancy may undertake projects in the City of San Juan Capistrano pursuant to Chapter 4 (commencing with Section 31150) and Chapter 8 (commencing with Section 31350).

SEC. 3. Section 31208 of the Public Resources Code is amended to read:

31208. (a) Following completion of a coastal restoration plan, the conservancy shall forward the proposed plan to the commission for determination of conformity of the plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit the findings on such plan to the conservancy. If no comments are received within that period, the coastal restoration plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

(b) Following the certification of a local coastal program, the city or county or city and county with jurisdiction over the certified area, rather than the commission, shall review the coastal restoration plan where: (1) the proposed restoration plan will be implemented entirely within one local public agency's jurisdiction; (2) the area proposed for restoration is identified pursuant to the provisions of Section 31201; and (3) implementation of the coastal restoration plan does not require an amendment to the certified local coastal program. The local public agency shall review the coastal restoration plan to determine consistency with the certified local coastal program within 60 days after transmittal of the plan from the conservancy and shall transmit its findings to the conservancy immediately upon completion of plan review. If no comments are received at the end of the 60-day period, the plan shall be deemed to be in accord with the provisions of the certified local coastal program.

Where the coastal restoration plan will be implemented in whole or in part in an area in which the commission retains coastal development permit jurisdiction pursuant to subdivision (b) of Section 30519, or in an area in which two or more local governments have coastal development permit jurisdiction, or where a local coastal program amendment is required to implement the plan, the commission shall be responsible for coastal restoration plan review and shall conduct the review in the following manner. The commission shall review the coastal restoration plan for consistency with the policies and objectives of Division 20, as provided in subdivision (a), for an area subject to retained coastal development permit jurisdiction pursuant to subdivision (b) of Section 30519 and where a local coastal program amendment is required, and shall

review the plan for consistency with certified local coastal programs for areas under local government coastal development permit jurisdiction.

SEC. 4. Section 31251.2 is added to the Public Resources Code, to read:

31251.2. (a) In order to enhance the natural or scenic character of coastal resources within the coastal zone, the conservancy may undertake a project or award a grant, consistent with subdivision (a) of Section 30200 and pursuant to this chapter, to enhance a watershed resource, other than an anadromous fish stream or riparian corridor, that is partly outside of the coastal zone.

Neither the conservancy nor any other state agency shall undertake a project affecting an area outside the coastal zone under this chapter, except at the request of the local public agency or agencies having jurisdiction over the entire project area.

(b) Any enhancement activity carried out pursuant to this section shall not be subject to any commission review, as set forth in Section 31258, for that portion of the activity located outside the coastal zone. However, the commission through its executive director and the Department of Fish and Game may review and comment on the enhancement plan's consistency with the policies and objectives of Division 20 (commencing with Section 30000).

(c) No funds set forth in subdivisions (c) and (d) of Section 5096.151 of the Public Resources Code, shall be expended on enhancement activities that are outside the coastal zone.

(d) This section shall not apply to any portion of the Santa Monica Mountains Zone as set forth in Division 23 (commencing with Section 33000).

SEC. 5. Section 31258 of the Public Resources Code is amended to read:

31258. (a) Following completion of a coastal resource enhancement plan, the conservancy shall forward the plan to the commission for determination of conformity of the plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit the findings on the plan to the conservancy. If no comments are received within the period, the restoration plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

(b) Following the certification of a local coastal program, the city or county or city and county with jurisdiction over the certified area, rather than the commission, shall review the coastal resource enhancement plan where: (1) the proposed enhancement plan will be implemented entirely within one local public agency's jurisdiction; (2) the area proposed for enhancement is identified pursuant to the provisions of Section 31251; and (3) implementation of the enhancement plan does not require an amendment to the certified local coastal program. The local public agency shall review the enhancement plan to determine consistency with the certified local coastal program within 60 days after transmittal of the plan

from the conservancy and shall transmit its findings to the conservancy immediately upon completion of plan review. If no comments are received at the end of the 60-day period, the plan shall be deemed to be in accord with the provisions of the certified local coastal program.

Where the enhancement plan will be implemented in whole or in part in an area in which the commission retains coastal development permit jurisdiction pursuant to subdivision (b) of Section 30519, or in an area in which two or more local governments have jurisdiction, or where a local coastal program amendment is required to implement the plan, the commission shall be responsible for enhancement plan review and shall conduct the review in the following manner. The commission shall review the enhancement plan for consistency with the policies and objectives of Division 20, as provided in subdivision (a), for the area subject to retained coastal development permit jurisdiction pursuant to subdivision (b) of Section 30159 and where a local coastal program amendment is required, and shall review the plan for consistency with certified local coastal programs for areas under local government coastal development permit jurisdiction.

SEC. 6. Section 31351 of the Public Resources Code is amended to read:

31351. (a) The conservancy shall cooperate with the commission, bay commission, and other state, local, and federal public agencies and with nonprofit organizations in ensuring the reservation of lands for park, recreation, fish and wildlife habitat, historical preservation, or scientific study required to meet the policies and objectives of the California Coastal Act of 1976 (commencing with Section 30000) or a certified local coastal plan or program, or, in the case of San Francisco Bay, the sites identified in the bay plan, the Suisun Marsh Protection Plan, or in any other local plan which the bay commission determines to be consistent with those plans.

(b) The provisions of this division shall not diminish or otherwise affect the authority of the bay commission to approve, deny, or modify permits as provided in Section 66632 of the Government Code.

SEC. 7. Section 31352 of the Public Resources Code is amended to read:

31352. In the event that any state, local, or federal public agency or any nonprofit organization is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site as provided in Section 31351, the conservancy may acquire and hold the site for subsequent conveyance to the appropriate public agency or nonprofit organization. The conservancy may provide such technical assistance as is required to aid public agencies and nonprofit organizations in completing such acquisition and related functions.

SEC. 8. Section 31354 of the Public Resources Code is amended

to read:

31354. The conservancy shall not hold lands acquired in accordance with this chapter more than 10 years from the time of acquisition. A federal, state, or local public agency shall have the right to acquire the land at any time during this period for public purposes indicated in a certified local coastal plan or program, or in any local plan which the commission determines to be consistent with the policies and objectives of Division 20 (commencing with Section 30000), or, in the case of San Francisco Bay, the sites identified in the San Francisco Bay Plan, the Suisun Marsh Protection Plan, or any other local plan which the San Francisco Bay Conservation and Development Commission determines to be consistent with those plans, as well as any other area of importance to coastal resources, including unfilled historic tidal wetlands identified by the state. At any time during this period, a nonprofit organization may acquire those lands if the city or county within which the lands are located approves the acquisition, and, when deemed appropriate by the conservancy, the instrument of conveyance of those lands to a nonprofit organization includes a restriction permanently limiting use of those lands to the public purposes indicated in a certified approved plan or program. The acquisition price to federal, state, or local agencies or to nonprofit organizations shall be based upon the cost of acquisition under this division, plus administrative and management costs in reserving the land. The payment of this acquisition price shall be either monetary or conservancy approved property of an equivalent value, or a combination thereof. The lands acquired under this section shall not be disposed of under Section 11011.1 of the Government Code.

If, at the expiration of this 10-year period, no public agency or nonprofit organization is willing or able to acquire the lands, the conservancy shall request the Department of General Services to dispose of those lands at fair market value without restriction on subsequent land use under this division.

Any funds received by the state upon disposition of lands acquired in accordance with Section 31352 shall be deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purposes of funding the programs specified in this division.

SEC. 9. Local governments shall be reimbursed pursuant to Sections 30340.5 and 30340.6 of the Public Resources Code for any costs that may be incurred by them in carrying out any program or performing any service required to be carried on or performed by Sections 3 and 5 of this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order not to delay, and thus jeopardize, projects which rely on willing sellers, it is necessary that this act take effect immediately.

CHAPTER 506

An act to repeal and add Chapter 7 (commencing with Section 4700) to Division 4.5 of, and to repeal Section 5328.5 of, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor July 13, 1982. Filed with Secretary of State July 13, 1982.]

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

SECTION 1. Chapter 7 (commencing with Section 4700) of Division 4.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 4700) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 7. APPEAL PROCEDURE

Article 1. Definitions

4700. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

4701. "Adequate notice" means a written notice informing the applicant, recipient, and authorized representative of at least all of the following:

(a) The action that the service agency proposes to take.

(b) The reason or reasons for that action.

(c) The effective date of that action.

(d) The specific law, regulation, or policy supporting the action.

(e) The responsible state agency with whom a state appeal must be filed, including the address of the state agency director.

(f) Information on availability of advocacy assistance, including referral to the state hospital or regional center rights advocate, area board, publicly funded legal services, corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under federal Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act.

(g) The fair hearing appeal procedure, including deadlines and the right to waive the appeals board hearing, and access to service agency records under Article 5 (commencing with Section 4725).

(h) That if a request for a fair hearing by a recipient is postmarked not later than 10 days prior to the effective date of the proposed action, current services shall continue as provided in Section 4715. The notice shall be in clear, nontechnical language in English and such other languages as the claimant comprehends.

4701.5. "Applicant" means a person who has applied for services from a service agency, or on whose behalf services have been applied for.

4701.6. "Authorized representative" means the legal guardian, conservator, or parent or person having legal custody of a minor claimant, or person or agency authorized in writing by the claimant or by the legal guardian, conservator, or parent or person having legal custody of a minor claimant to act for or represent the claimant under this chapter.

4702. "Claimant" means an applicant for or recipient of services who has filed for a fair hearing.

4702.5. "Days" means calendar days unless otherwise noted.

4702.6. "Hearing request form" means a document which shall include the name of the persons requesting a hearing, name of applicant or recipient, date of request, reason for the request, and authorized representative, if any.

4703. "Persons who have the right to request a fair hearing" means applicant, recipient, applicant or recipient's legal guardian or conservator, applicant or recipient's parent, if a minor, and applicant or recipient's authorized representative.

4703.5. "Recipient" means a person with a developmental disability who is eligible for and receives services from a service agency.

4703.6. "Responsible state agency" means the state agency with which a state appeal is required to be filed.

4703.7. "Services" means the type and amount of services and service components set forth in the recipient's individual program plan pursuant to Section 4646.

4704. "Service agency" means any public or private agency that receives state funds to provide services for persons with developmental disabilities.

Article 2. General Provisions

4705. (a) Every service agency shall, as a condition of continued receipt of state funds, have an agency fair hearing procedure for resolving conflicts between the service agency and recipients of, or applicants for, service. The State Department of Developmental Services shall promulgate uniform regulations for fair hearings under this chapter by October 1, 1983, which shall be binding on every regional center.

(b) A service agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

(c) The service agency's fair hearing procedure shall be stated in writing, in English and such other language as may be appropriate to the needs of the consumers of the agency's service. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the service agency.

(d) All recipients, applicants and persons having legal responsibility for such recipients or applicants shall be informed verbally of, and shall be notified in writing in a language which they

comprehend of, the service agency's fair hearing procedure when they apply for service, when they are denied service, and when notice of service modification is given pursuant to Section 4710.

Article 3. Fair Hearing Procedure

4710. (a) Adequate notice shall be sent to the applicant or recipient by certified mail at least 30 days prior to any of the following actions:

(1) The agency makes a decision without the mutual consent of the service recipient or authorized representative to reduce, terminate, or change services set forth in an individual program plan.

(2) A recipient is determined to be no longer eligible for agency services.

(b) If the reason for denial of services or modification of services in a recipient's individual program plan is a lack of funds in the regional center budget, the regional center shall be the service agency responsible for giving adequate notice and participating in the fair hearing procedure under this chapter.

(c) If a lack of funds in the regional center budget is the reason for (1) the denial of services to an applicant or (2) the denial of services to a current regional center client requesting services not included in the client's individual program plan but determined to be necessary by the interdisciplinary team, or (3) denial, cutback, or termination of current services to a recipient set forth in the individual program plan, the regional center shall, within 30 days after written notice is mailed to the applicant or client, notify the department in writing of the denial. The notification to the department shall include the nature of the service requested, a request that the department allocate sufficient funds to the regional center within 30 days to provide the service, the projected cost for such service for the balance of the fiscal year, and information substantiating the reason for the lack of funds to purchase such service.

(d) If a person requests regional center services and is found to be ineligible for such services, the regional center shall give adequate notice pursuant to Section 4701. Notice shall be sent within five days of the time limits set forth in Sections 4642 and 4643.

(e) The advance notice specified in subdivision (a) shall not be required when a reduction, termination, or change in services is determined to be necessary for the health and safety of the recipient. However, adequate notice shall be given within 10 days after such service agency action.

4710.5. (a) Any applicant for or recipient of services, or authorized representative of such applicant or recipient who is dissatisfied with any action of the service agency which he or she believes to be illegal, discriminatory, or not in the recipient's or applicant's best interests, who has received adequate notice pursuant to Section 4710, who is dissatisfied with a request to correct records

or remove information under Section 4715 or who is refused the right to apply for services, shall, upon filing a request within 30 days after the action complained of, be afforded an opportunity for a fair hearing.

(b) The request for a fair hearing shall be stated in writing on a hearing request form provided by the service agency, or in other written form.

(c) If any person makes a verbal request for a fair hearing, the employee of the service agency who hears the request shall provide the person with a fair hearing form and shall assist the person in filling out such form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(d) The hearing request shall be directed to the director of the service agency responsible for the action complained of under subdivision (a). In the case of an appeal submitted to the director of a regional center, a state hospital, or a service agency authorized by the regional center pursuant to subdivision (b) of Section 4648, the service agency director shall send a copy of the appeal form to the department within five days of the service agency director's receipt of the request. The department shall keep a file of all hearing request forms.

(e) If the claimant waives the appeals board hearing, the appeal request and notice of waiver shall be sent directly to the director of the responsible state agency for a state level hearing pursuant to Section 4712.

4710.6. (a) Upon receipt by the service agency director of the appeal form, the service agency director shall immediately notify in writing the claimant, the claimant's guardian or conservator, parent of a minor, and authorized representative of the claimant's fair hearing rights, including:

(1) The right to waive the appeals board hearing.

(2) The opportunity to be present in all proceedings and to present written and oral evidence.

(3) The opportunity to confront and cross-examine witnesses.

(4) The right to appear in person with counsel or other representatives of his or her own choosing.

(5) The right to access to records pursuant to Article 5 (commencing with Section 4725).

(6) The right to an interpreter.

(b) The written notification of rights pursuant to subdivision (a) shall also include the following:

(1) Information on availability of advocacy assistance, including referral to the state hospital or regional center rights advocate, area board, publicly funded legal services corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under federal Public Law 95-602, the Developmental Disabilities Assistance and Bill of Rights Act.

(2) The proposed date, time and place for the appeals board

hearing.

(3) Information that the appeals board hearing shall be held within 30 days of the receipt of the hearing request specified in subdivision (a) of Section 4710.6, unless both parties agree to an extension pursuant to subdivision (e) of Section 4711.5, or the appeals board hearing is waived.

(c) After the informal meeting held pursuant to Section 4710.7, and upon notification that the appellant is continuing the hearing procedure, the service agency director shall immediately send a copy of the hearing request to the area board.

4710.7. Within 10 days of the receipt of the request for a fair hearing, the agency director, or his or her designated representative, shall meet informally with the claimant and his or her authorized representative to resolve the issue or issues that are the subject of the appeal, as follows:

(a) The informal meeting shall be conducted by the service agency director or his or her designee. Any designee shall have the authority to resolve the issue or issues. The service agency director or his or her designee shall notify the applicant or recipient or his or her authorized representative of the decision of the informal meeting in writing within five days of the meeting.

(b) Prior to the meeting, the applicant or his or her authorized representative shall have the right to examine any documents contained in the individual's service agency file. Access to records shall be provided pursuant to Article 5 (commencing with Section 4725).

(c) If the informal meeting does not resolve the issues, the fair hearing shall continue.

4711. (a) Within 30 days of the receipt of the fair hearing request by the service agency director, the appeals board hearing shall be conducted unless the appellant waives the appeals board hearing pursuant to paragraph (1) of subdivision (a) of Section 4710.6.

(b) The appeals board shall be composed of three persons, one selected by the agency's governing board, one selected by the person or persons requesting the hearing, and the third selected by the area board.

(c) No member of the appeals board shall be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, spouse, parent, child, brother, sister, grandparent, legal guardian or conservator of the appellant, or any person who has a direct financial interest in the outcome of the fair hearing or any other interest which would preclude a fair and impartial hearing.

(d) The appeals board hearing shall be held at a time and place reasonably convenient to the claimant.

(e) The service agency may reimburse each member of the appeals board a reasonable per diem and transportation cost for participation in the appeals board. Such costs shall be those normally authorized by the service agency for its employees.

(f) Each member of the appeals board shall be knowledgeable of the federal and state laws, regulations, and policies pertaining to services for persons with developmental disabilities.

(h) The chairperson of the appeals board shall be selected by its members.

4711.5. (a) The hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. All testimony shall be under oath or affirmation which the chairperson of the panel is empowered to administer.

(b) At the hearing, the claimant shall have the rights stated pursuant to subdivision (a) of Section 4710.6. If, in the opinion of any person the rights or best interests of a claimant who has not personally authorized a representative will not be properly protected or advocated in any appeals procedure, the area board shall be notified, and the area board may appoint a representative to assist the claimant in such appeals procedure.

(c) A recording shall be made of the proceedings before the appeals board. Any cost of recording shall be borne by the service agency.

(d) The hearing shall be conducted in the English language. However, if any of the parties does not comprehend English, then an interpreter shall be provided who is competent and acceptable to the party requiring the interpreter and to the hearing panel. Any cost of interpreter shall be borne by the service agency.

(e) The appeals board hearing shall be held within 30 days of receipt of the request for the hearing. Either party to the appeals board hearing may request a continuance, which shall be granted upon a showing of good cause. Any continuance shall not extend the time of the hearing beyond 45 days from the receipt of the request for appeal unless the claimant is agreeable to such an extension.

(f) Appeals board hearings shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed.

4711.6. (a) Within 15 days of the concluding day of the appeals board hearing, the appeals board shall render a written decision based upon a majority vote of its members.

(b) The appeals board's written decision shall be in ordinary and concise language. If any of the parties cannot comprehend English, then the written decision for that party shall be translated into a language which such party can comprehend. The decision shall contain a summary of facts, a statement of the evidence relied upon from the proceedings, a decision on each of the issues presented, and identification of the law, regulations, and policies supporting the decision. The notification of the decision shall state that the decision shall go into effect 30 days after claimant's receipt of decision and that it shall be the final administrative decision unless either party appeals to the responsible state agency. The notification shall state that either party has a right of appeal to the responsible state agency

within 30 days.

4712. (a) If either party disagrees with the decision of the appeals board, he or she shall submit a written request for appeal to the director of the responsible state agency within 30 days of receipt of the appeals board decision.

If a claimant chooses to waive the appeals board hearing, the claimant shall submit a written request for a state appeal within 10 days of receipt of notification in Section 4710.6.

(b) Upon receipt of the request for appeal the responsible state agency director shall immediately notify the service agency, claimant, claimant's legal guardian or conservator, parent of minor claimant, and claimant's authorized representative in writing of the receipt of request for state level hearing, rights pursuant to subdivision (a) of Section 4710.6, and the availability of advocacy assistance pursuant to paragraph (1) of subdivision (b) of Section 4710.6.

(c) The hearing shall be held within 15 days of the receipt of request for state hearing, or 15 days from receipt of the decision to waive the appeals board hearing. Either party may request a continuance, which shall be granted upon a showing of good cause. Any continuance shall not extend the time for a hearing beyond 30 days of receipt of the request.

(d) The state hearing shall be conducted by a person knowledgeable in the law and regulations governing services to developmentally disabled individuals and administrative hearings. The hearing officer shall review the findings and decision of the appeals board hearing if one has been held, and may incorporate them in the state agency decision. The hearing officer may request additional information or evidence.

A hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined by the hearing officer.

(e) Both parties to the hearing shall have the rights specified in subdivision (a) of Section 4710.6.

(f) The state hearing shall be conducted according to the rules stated in subdivisions (a), (b), (c), and (f), of Section 4711.5 except that the costs of an interpreter and recording shall be borne by the responsible state agency.

4712.5. (a) Within 15 days of the concluding day of the state hearing, the hearing officer shall render a written decision which shall contain a summary of facts, a statement of the evidence from the proceedings which was relied on, a decision on each of the issues presented, and identification of the statutes, regulations, and policies supporting the decision. The decision shall be in ordinary and concise

language. If any of the parties cannot comprehend English, then the written decision shall be translated for that person into a language which such party can comprehend. The decision shall include notification that this is the final administrative decision, and both parties shall be bound thereby. Either party may appeal any final administrative decision to a court of competent jurisdiction within 90 days.

(b) The decision shall not be implemented until 30 days after it is received by the claimant.

Article 4. Services Pending Final Administrative Decision

4715. (a) Except as otherwise provided in this section, if a request for a hearing is postmarked not later than 10 days prior to the effective date of the proposed action, services that are being provided pursuant to a recipient's individual program plan shall be continued during the appeal procedure up to and including the 30th day after certified mailing of either of the following final administrative decisions:

(1) The appeals board decision if the right to appeal from the appeals board is not exercised.

(2) The responsible state agency's decision if the right to appeal from the appeals board is exercised or if the appeals board hearing is waived.

(b) Services continued pursuant to subdivision (a) may be modified by agreement of the parties in accordance with the decision of the interdisciplinary team and the individual program plan.

(c) Any appeal to a court by either party shall not operate as a stay of enforcement of the final administrative decision, provided that either party may seek a stay of enforcement from any court of competent jurisdiction.

4716. Nothing in this chapter shall presume the incompetence of any person with a developmental disability to participate in any of the appeals procedures established herein.

Article 5. Access to Records

4725. For the purposes of this article:

(a) "Access" means the right to inspect, review, and obtain an accurate copy of any record obtained in the course of providing services under this division. A service agency may make a reasonable charge in an amount not to exceed the actual cost of reproducing the record, unless the imposition of the cost would prohibit the exercise of the right to obtain a copy. No charge may be made to search for or retrieve any record.

(b) "Record" means any item of information directly relating to a person with developmental disabilities or to one who is believed to have a developmental disability which is maintained by a service

agency, whether recorded by handwriting, print, tapes, film, microfilm, or other means.

4726. Notwithstanding the provisions of Section 5328, access to records shall be provided to an applicant for, or recipient of, services or to his or her authorized representative for purposes of the appeal procedure under this chapter.

4727. Nothing in this chapter shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a recipient's or applicant's family.

4728. Each service agency shall adopt procedures for granting of requests by persons authorized under Section 4726 for access to records during regular business hours, provided that access shall be granted no later than five days following the date of receipt of the oral or written request for access. Procedures shall include notice of the location of all records and providing qualified personnel to interpret records if requested.

4729. Whenever access to service agency records is requested, the service agency shall provide at least the following information:

(a) The types of records maintained by the service agency.

(b) The position of the official responsible for the maintenance of records.

(c) The right of access to the records, and the policies of the service agency for obtaining access, including the cost, if any, consistent with subdivision (a) of Section 4725, to be charged for reproducing copies of records.

4730. Any person who willfully and knowingly violates the provisions of this article is guilty of a misdemeanor.

SEC. 3. Section 5328.5 of the Welfare and Institutions Code is repealed.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 507

An act to amend Sections 18906 and 18941 of, and to add Section 17960.5 to, the Health and Safety Code, relating to building standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 13, 1982. Filed with Secretary of State July 13, 1982.]

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

SECTION 1. Section 17960.5 is added to the Health and Safety Code, to read:

17960.5. The building standards for residential buildings in Chapter 2-53 of Part 2, and Chapter 4-10 of Part 4, of Title 24 of the California Administrative Code effective July 13, 1982, shall not apply to the construction of new residential housing projects which received approval by an advisory agency or other appropriate local agency on or before June 15, 1982, provided application for the permits to construct single-family detached dwellings are submitted or filed on or before June 15, 1983, and the application for all other residential building permits are submitted or filed on or before December 31, 1983.

For the purposes of this section, "approval" includes, but is not limited to, approval or conditional approval of a tentative subdivision or tentative parcel map or parcel map pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), condominium plan or other permit for a residential housing project.

SEC. 2. Section 18941 of the Health and Safety Code is amended to read:

18941. All building standards and regulations shall be administered and enforced and, whenever practicable, written on a performance basis consistent with state and nationally recognized standards for building construction in view of the use and occupancy of each structure to best preserve and protect the public health and safety.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, Sections 2 and 3 of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

In order that state agencies may adopt building standards in the

proper form at the earliest possible time and to prevent the significant increase of the cost of residential buildings when the new Title 24 standards become operable, it is necessary for this act to go into immediate effect.

CHAPTER 508

An act to amend Sections 53601 and 53635 of, and to add Section 45308.7 to, the Government Code, relating to funds of local agencies.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 45308.7 is added to the Government Code, to read:

45308.7. The city retirement board, if there is one, or the city treasurer with the approval of the city council, may enter into security loan agreements with broker-dealers and with California or national banks for the purpose of prudently supplementing the income normally received from investments.

(b) "Security loan agreement" means a written contract whereby a legal owner, the lender, agrees to lend specific marketable corporate or government securities for a period not to exceed one year. The lender retains the right to collect from the borrower all dividends, interest, premiums, rights, and any other distributions to which the lender would otherwise have been entitled. The lender waives the right to vote the securities during the term of the loan. The lender may terminate the contract upon not more than five business days' notice as agreed, and the borrower may terminate the contract upon not less than two business days' notice as agreed. The borrower shall provide collateral to the lender in the form of cash or bonds or other interest-bearing notes and obligations of the United States or federal instrumentalities eligible for investment by a lending retirement fund.

Such collateral shall be in an amount equal to at least 102 percent of the market value of the loaned securities as agreed. The lender shall monitor the market value of the loaned securities daily. The loan agreement shall provide for payment of additional collateral on a daily basis, or at such times as the value of the loaned securities increases, to agreed-upon ratios. In no event, shall the amount of the collateral be less than the market value of the loaned securities.

(c) "Marketable securities" means securities that are freely traded on recognized exchanges or marketplaces.

(d) Each board or city treasurer entering into security loan agreements shall do all of the following:

(1) Maintain detailed records of all security loans.

(2) Develop controls and reports to monitor the conduct of the transactions.

(3) Publicize the net results of the security loan transaction separate from the results of other investment activities.

SEC. 2. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus money which may be invested pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total

assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 3. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of

any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus funds which may be invested pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date

and for a specified amount.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

CHAPTER 509

An act to amend Sections 17510.3 and 17510.7 of the Business and Professions Code, relating to charitable solicitations.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 17510.3 of the Business and Professions Code is amended to read:

17510.3. (a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided such material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that such information as required below is contained in the printed material.

Information on the card or printed material shall be presented in at least 10-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes;

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes;

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.

(4) If paid fund raisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses.

(5) If the solicitation is not a sale solicitation, the card may state,

in place of the amount of fundraising expenses, that an audited financial statement of such expenses may be obtained by contacting the organization at the address disclosed.

(6) The nontax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law;

(7) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible the card shall state that "This contribution is not tax deductible."

(b) Knowing and willful noncompliance by any individual volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of the law.

(c) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of such organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. Such organization shall provide such information to the person solicited within seven days after receipt of the request.

(d) A volunteer who receives no compensation of any type from, or in connection with, a solicitation or sales solicitation by a charitable organization which has qualified for a tax exemption under Section 501 (c) (3) of the Internal Revenue Code of 1954, and who is 18 years of age or younger, is not required to make any disclosures pursuant to this section.

SEC. 2. Section 17510.7 of the Business and Professions Code is amended to read:

17510.7. Compliance with any city or county ordinance which provides for disclosure of information relating to solicitations or sales solicitations for charitable purposes substantially similar to and no less than the disclosure requirements of this article shall be deemed to satisfy the requirements of this article. The provisions of this article are not intended to preempt any city or county ordinance.

CHAPTER 510

An act to amend Sections 128 and 1209 of the Code of Civil Procedure, relating to contempt.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 128 of the Code of Civil Procedure is amended to read:

128. (a) Every court shall have power:

1. To preserve and enforce order in its immediate presence;

2. To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;

3. To provide for the orderly conduct of proceedings before it, or its officers;

4. To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein;

5. To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto;

6. To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this code;

7. To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties;

8. To amend and control its process and orders so as to make them conformable to law and justice.

(b) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting an attorney, his agent, investigator, or any person acting under the attorney's direction, in the preparation and conduct of any action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt except for such conduct as may be proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.

(c) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting a public safety employee acting within the scope of employment for reason of the employee's failure to comply with a duly issued subpoena or subpoena duces

tecum, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "public safety employee" includes any peace officer, firefighter, paramedic, or any other employee of a public law enforcement agency whose duty is either to maintain official records or to analyze or present evidence for investigative or prosecutorial purposes.

SEC. 2. Section 1209 of the Code of Civil Procedure is amended to read:

1209. (a) The following acts or omissions in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:

1. Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to interrupt the due course of a trial or other judicial proceeding;

2. A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the due course of a trial or other judicial proceeding;

3. Misbehavior in office, or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner, or other person, appointed or elected to perform a judicial or ministerial service;

4. Abuse of the process or proceedings of the court, or falsely pretending to act under authority of an order or process of the court;

5. Disobedience of any lawful judgment, order, or process of the court;

6. Rescuing any person or property in the custody of an officer by virtue of an order or process of such court;

7. Unlawfully detaining a witness, or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial;

8. Any other unlawful interference with the process or proceedings of a court;

9. Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness;

10. When summoned as a juror in a court, neglecting to attend or serve as such, or improperly conversing with a party to an action, to be tried at such court, or with any other person, in relation to the merits of such action, or receiving a communication from a party or other person in respect to it, without immediately disclosing the same to the court;

11. Disobedience by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of a superior court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate, or officer.

(b) No speech or publication reflecting upon or concerning any court or any officer thereof shall be treated or punished as a

contempt of such court unless made in the immediate presence of such court while in session and in such a manner as to actually interfere with its proceedings.

(c) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting an attorney, his agent, investigator, or any person acting under the attorney's direction, in the preparation and conduct of any action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt, except for such conduct as may be proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.

(d) Notwithstanding Section 1211 or any other provision of law, if an order of contempt is made affecting a public safety employee acting within the scope of employment for reason of the employee's failure to comply with a duly issued subpoena or subpoena duces tecum, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, a violation of which is the basis for the contempt.

As used in this subdivision, "public safety employee" includes any peace officer, firefighter, paramedic, or any other employee of a public law enforcement agency whose duty is either to maintain official records or to analyze or present evidence for investigative or prosecutorial purposes.

CHAPTER 511

An act to amend Sections 35162, 54799.1, and 56275 of the Government Code, relating to local agency formation commissions.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 35162 of the Government Code is amended to read:

35162. The conducting authority or any affected county, city, district, landowner, voter, taxpayer, inhabitant, or other interested person desiring any addition, deletion, amendment, or revision of any commission resolution making determinations or of any term, condition, or other provision therein, including the boundaries of the affected territory determined and established by the commission, shall file written application therefor with the executive officer within 30 days of the adoption of the commission resolution, who

shall present the same to the commission at its next meeting.

Once a request for a rehearing is filed with the executive officer, the conducting authority shall be notified by the executive officer, and the conducting authority shall not take final action until the commission has made a determination on the requested change.

Reconsideration of the commission resolution shall be made prior to final action of the conducting authority and in no case to exceed 60 days from the date of notification by the executive officer. The filed application may be withdrawn by the applicant at any time prior to its having been denied or approved by the commission.

The commission, in its discretion, may either (a) without further notice and hearing, deny or approve the application in whole or in part, or (b) provide for notice and hearing upon the application in the same manner as for the original proposal, prior to denying or approving the same.

The determinations of the commission as specified in its resolution, or in any such amended resolution, including the commission's determinations as to boundaries of the affected territory, shall be final and conclusive, and no further changes shall be made except as provided in this section.

SEC. 2. Section 54799.1 of the Government Code is amended to read:

54799.1. If any legislative body, landowner, voter, or other interested person shall desire any addition, deletion, amendment, or revision of any commission resolution making determinations or any term, condition, or other provision contained therein, including minor or major changes in boundaries of proposed new cities or annexations to existing cities, such legislative body, landowner, voter, or other interested person, shall prior to the completion of proceedings, but not more than 30 days after adoption of the commission's resolution making determinations, file written application therefor with the executive officer who shall present the same to the commission at its next meeting. The filed application may be withdrawn by the applicant at any time prior to its having been denied or approved by the commission. The commission, in its discretion, may either (a) without further notice and hearing, deny or approve such application in whole or in part, or (b) provide for notice and hearing upon the application, in the same manner as for the original proposal, prior to denying or approving the same. Any determination made by a commission pursuant to this section shall be final and conclusive and no further application shall be made pursuant to this section requesting the same or substantially the same addition, deletion, amendment, or revision of the commission's resolution making determinations.

SEC. 3. Section 56275 of the Government Code is amended to read:

56275. Any legislative body conducting a proceeding for a change of organization or reorganization, or any affected county, city, district, landowner, voter, or other interested person desiring any

addition, deletion, amendment, or revision of any commission resolution making determinations or any term, condition, or other provision contained therein, may within 30 days after adoption of the commission's resolution making determinations file written application therefor with the executive officer who shall present the same to the commission at its next meeting. The filed application may be withdrawn by the applicant at any time prior to its having been denied or approved by the commission. When such a written application is filed with the commission, the time within which the legislative body conducting proceedings is directed to act shall be tolled from the date upon which written application is made to the commission to the date upon which the legislative body receives notification of the commission's final action on the application. The commission, in its discretion, may either (a) without further notice and hearing, deny or approve such application, in whole or in part, or (b) provide for notice and hearing upon the application, in the same manner as for the original proposal, prior to denying or approving the same. Any determinations made by a commission pursuant to this section shall be final and conclusive and no further application shall be made pursuant to this section requesting the same or substantially the same addition, deletion, amendment, or revision of the commission's resolution making determinations.

CHAPTER 512

An act to amend Sections 1805.4 and 1810.4 of the Civil Code, and to add Sections 18218.5, 22458.7 and 24458.7 to the Financial Code, relating to credit.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 1805.4 of the Civil Code is amended to read:

1805.4. The finance charge shall be inclusive of all charges incident to investigating and making the contract and for the extension of the credit provided for in the contract, and no fee, expense or other charge whatsoever shall be taken, received, reserved or contracted for except as otherwise provided in this chapter.

The seller or holder of a retail installment contract may charge and collect a five dollar ($5) fee for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued in connection with the retail installment contract. The fee is not included in charges as defined in this chapter or in determining the applicable charges which may be made under this chapter.

SEC. 2. Section 1810.4 of the Civil Code is amended to read:

1810.4. The finance charge shall include all charges incident to investigating and making the retail installment account. No fee, expense, delinquency, collection, or other charge whatsoever shall be taken, received, reserved, or contracted by the seller or holder of a retail installment account except as provided in this section. A seller may, however, in an agreement which is signed by the buyer and of which a copy is given or furnished to the buyer provide for the payment of attorney's fees and costs in conformity with Article 11 (commencing with Section 1811.1).

The seller or holder of a retail installment account may charge and collect a five dollar ($5) fee for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued in connection with the retail installment account. The fee is not included in charges as defined in this chapter or in determining the applicable charges which may be made under this chapter.

SEC. 3. Section 1810.4 of the Civil Code is amended to read:

1810.4. The finance charge shall include all charges incident to investigating and making the retail installment account. No fee, expense, delinquency, collection, or other charge whatsoever shall be taken, received, reserved, or contracted by the seller or holder of a retail installment account except as provided in this section. A seller may, however, in an agreement which is signed by the buyer and of which a copy is given or furnished to the buyer provide for the payment of attorney's fees and costs in conformity with Article 11 (commencing with Section 1811.1). When credit cards are issued in connection with a retail installment account, the seller, either in the agreement or after giving the notice required by subdivision (d) of Section 1810.3, may require the payment of an annual fee of not more than fifteen dollars ($15) for membership in the credit card plan, which fee shall not be deemed a finance charge or interest for any purpose of the law.

The seller or holder of a retail installment account may charge and collect a five dollar ($5) fee for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued in connection with the retail installment account. The fee is not included in charges as defined in this chapter or in determining the applicable charges which may be made under this chapter.

SEC. 4. Section 18218.5 is added to the Financial Code, to read:

18218.5. With respect to a loan subject to maximum charges under this article, a five dollar ($5) fee for return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft may be charged and collected by the licensee. The fee is not included in charges as defined in this division or in determining the applicable maximum charges which may be made under this article.

SEC. 5. Section 22458.7 is added to the Financial Code, to read:

22458.7. With respect to a loan subject to maximum charges under this article, a five dollar ($5) fee for return by a depository institution of a dishonored check, negotiable order of withdrawal, or

share draft may be charged and collected by the licensee. The fee is not included in charges as defined in this division or in determining the applicable maximum charges which may be made under this article.

SEC. 6. Section 24458.7 is added to the Financial Code, to read:

24458.7. With respect to a loan subject to maximum charges under this article, a five dollar ($5) fee for return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft may be charged and collected by the licensee. The fee is not included in charges as defined in this division or in determining the applicable maximum charges which may be made under this article.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 1366 are both chaptered and become effective January 1, 1983, both bills amend Section 1810.4 of the Civil Code, and this bill is chaptered after Senate Bill No. 1366, that the amendments to Section 1810.4 proposed by both bills be given effect and incorporated in Section 1810.4 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill No. 1366 are both chaptered and become effective January 1, 1983, both amend Section 1810.4, and this bill is chaptered after Senate Bill No. 1366, in which case Section 2 of this act shall not become operative.

CHAPTER 513

An act to amend Section 14790 of, to repeal Article 2.5 (commencing with Section 14816) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of, the Government Code, and to add Chapter 3 (commencing with Section 12100) to Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 14790 of the Government Code, as amended by Section 7 of Chapter 867 of the Statutes of 1981, is amended to read:

14790. Purchases by the Regents of the University of California or the Trustees of the California State University are not subject to this article or to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. The Trustees of the California State University, however, shall comply with the competitive bidding requirements prescribed by law and shall follow the purchasing criteria published by the Department of General Services.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2. Section 14790 of the Government Code, as added by Section 7.5 of Chapter 867 of the Statutes of 1981, is amended to read:

14790. Purchases by the Regents of the University of California are not subject to this article or to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. Notwithstanding any other provision of law, purchases by the Trustees of the California State University not exceeding one thousand dollars ($1,000) are exempt from this article and Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code.

This section shall become operative January 1, 1987.

SEC. 3. Article 2.5 (commencing with Section 14816) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 4. Chapter 3 (commencing with Section 12100) is added to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 3. ACQUISITION OF ELECTRONIC DATA-PROCESSING GOODS AND SERVICES

12100. The Legislature finds that the unique aspects of electronic data-processing systems and the importance of such systems to state programs warrant a separate acquisition authority for electronic data-processing goods and services. The Legislature further finds that such separate authority should enable the timely acquisition of goods and services in order to meet the state's needs in the most cost-effective manner.

All contracts for the acquisition of electronic data-processing services and all contracts for the acquisition of electronic data-processing goods, whether by lease or purchase, shall be made by or under the supervision of the Department of General Services.

12101. It is the intent of the Legislature that policies developed by the Department of Finance and procedures developed by the Department of General Services in accordance with Section 12102 provide for:

(a) The expeditious and cost-effective acquisition of electronic data-processing systems to satisfy state requirements.

(b) The acquisition of electronic data-processing goods and services within a competitive framework.

(c) The delegation of authority by the Department of General Services to each state agency which has demonstrated to the department's satisfaction the ability to conduct cost-effective electronic data-processing goods and services acquisitions.

(d) The exclusion from state bid processes, at the state's option, of any vendor having failed to meet prior contractual requirements related to electronic data-processing goods and services.

(e) The review and resolution of protests submitted by a vendor or vendors with respect to any electronic data-processing goods and services acquisition.

Further, it is the intent of the Legislature that, if a state electronic data-processing advisory committee is established by the Governor or the Director of Finance, the policies and procedures developed by the Director of Finance and the Director of General Services in accordance with this chapter shall be submitted to such committee for review and comment, and that such comment be considered by both departments prior to the adoption of any such policy or procedure.

12102. The Department of Finance and the Department of General Services shall maintain in the State Administrative Manual, policies and procedures governing the acquisition and disposal of electronic data-processing goods and services. Such policies and procedures shall, in accordance with the intent of the Legislature as expressed in Section 12101, provide for the following:

(a) Acquisition of electronic data-processing goods and services shall be conducted through competitive means, except when the Director of General Services determines that (1) the goods and services proposed for acquisition are the only goods and services which can meet the state's need, or (2) the goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety. The acquisition mode to be used and the procedure to be followed shall be approved by the Director of General Services. The Department of General Services shall maintain in the State Administrative Manual appropriate criteria and procedures to ensure compliance with the intent of this chapter. These criteria and procedures shall include acquisition and contracting guidelines to be followed by state agencies with respect to the acquisition of electronic data-processing goods and services. Such guidelines may be in the form of standard formats or model formats.

(b) Contract awards shall be based on the proposal which provides the most cost-effective solution to the state's requirements, as determined by the evaluation criteria contained in the solicitation document. Such evaluation procedures may provide for the selection of a vendor on a basis other than cost alone.

(c) Evaluation of bidders' proposals for the purpose of determining contract award shall provide for consideration of a bidder's best financing alternative unless the acquiring agency can demonstrate to the satisfaction of the Department of General Services that a particular financing alternative should not be so considered.

(d) Acquisition authority may be delegated by the Director of General Services to any state agency which has been determined by the Department of General Services to be capable of effective use of such authority. Such authority may be limited by the Department of General Services. Acquisitions conducted under delegated

authority shall be reviewed by the Department of General Services on a selective basis.

(e) To the extent practical, the solicitation documents shall provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

(f) Protest procedures shall be developed to provide bidders an opportunity to protest formally with respect to any acquisition conducted in accordance with this chapter. Authority to protest may be limited to participating bidders. The Director of General Services, or a person designated by the director, is authorized to consider and decide on initial protests. A decision regarding an initial protest shall be final. If prior to making the award, any vendor who has submitted an offer files a protest with the department against the awarding of the contract or purchase order on the ground that his bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, such contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relating to the protest. Within 10 calendar days after filing a protest, the protesting vendor shall file with the State Board of Control a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

(g) Electronic data-processing goods which have been determined to be surplus to state needs shall be disposed of in a manner which will best serve the interests of the state. Procedures governing the disposal of surplus goods may include auction or transfer to local governmental entities.

(h) A vendor may be excluded from bid processes if the vendor's performance with respect to a previously awarded contract has been unsatisfactory, as determined by the state in accordance with established procedures which shall be maintained in the State Administrative Manual. Such exclusion may not exceed 360 calendar days for any one determination of unsatisfactory performance. Any vendor excluded in accordance with this section shall be reinstated as a qualified vendor at any time during this 360-day period, upon demonstrating to the department's satisfaction that the problems which resulted in the vendor's exclusion have been corrected.

12103. In addition to the mandatory requirements enumerated in Section 12102 the acquisition policies developed and maintained by the Department of Finance and procedures developed and maintained by the Department of General Services in accordance with this chapter may provide for:

(a) Price negotiation with respect to contracts entered into in accordance with this chapter.

(b) System or equipment component performance, or availability standards, including an assessment of the added cost to the state to receive contractual guarantee of a level of performance.

(c) Requirement of a bond or assessment of a cost penalty with

respect to a contract or consideration of a contract offered by a vendor whose performance has been determined unsatisfactory in accordance with established procedures maintained in the State Administrative Manual as required by Section 12102.

12104. In any acquisition subject to this chapter involving the replacement of a computer central processing unit, if only one bid is received, and that bid is from the vendor whose equipment is being replaced, a notification of intent to award a contract to such sole bidder shall be submitted to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee not less than 30 days prior to an award of contract. Such notification shall describe the rationale for the award and the measures taken by the state to elicit more than one bid.

12105. The Department of General Services and the Department of Finance shall coordinate in the development of policies and procedures which implement the intent of this chapter. The Department of Finance shall have the final authority in the determination of any such general policy and the Department of General Services shall have the final authority in the determination of any such procedure.

12106. The Department of General Services may, in addition to fulfilling the mandatory requirements enumerated in Section 12102, adopt such rules and regulations as are necessary for the purposes of this chapter.

12107. The Department of General Services shall report by January 15th of each year to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee as to acquisitions accomplished in accordance with this chapter. Such reports shall address any significant problems encountered in the implementation and use of the authority provided in this chapter, measures taken to resolve such problems, and to the extent deemed necessary, recommended changes to this chapter or other statutes. The information to be provided regarding acquisitions may be summarized, but shall include such information as: (1) the number of noncompetitive awards and the reasons for each such award; (2) the extent to which acquisitions have been delegated, and to which departments; (3) information as to formal protests by bidders; and (4) such other information as will provide a meaningful accounting of acquisitions made in accordance with this chapter.

This section shall be operative until January 1, 1983, at which time it is repealed.

12108. Until such time as the Department of General Services has published in the State Administrative Manual the procedures required in accordance with Section 12102, acquisitions of electronic data-processing goods and services shall be accomplished in accordance with either existing State Administrative Manual procedures for the acquisition of electronic data-processing goods

and services, or Article 2 (commencing with Section 14790) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, as determined by the Department of General Services.

12109. The Director of General Services may make the services of the department under this chapter available, upon such terms and conditions as may be deemed satisfactory, to any tax-supported public agency in the state, including a school district, for assisting the agency in the purchase or lease of electronic data-processing goods or services.

12110. The Department of General Services is authorized to make purchases or leases of electronic data-processing goods and services, other than printed material, on behalf of any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods or services, upon written request of such local agency; provided that such purchase or lease can be made by the Department of General Services upon the same terms, conditions and specifications at a price lower than the local agency can obtain through its normal acquisition procedures. The state shall incur no financial responsibility in connection with purchases for local agencies under this section. No purchase or lease shall be for less than five hundred dollars ($500) and the local agency shall accept sole responsibility for payment to the vendor. All purchases and leases shall be subject to audit and inspection by the local agency for which made.

Purchases and leases under this section shall be subject to the provisions of this chapter.

A charge shall be made to each local agency availing itself of this service, such charge to be not less than the estimated cost to the department of rendering the service, including costs incurred by the department in preparation for a purchase or lease requested by a local agency in instances where such request is canceled or withdrawn by the local agency prior to award of the contract or purchase order by the department.

12111. The definitions pertaining to electronic data-processing as contained in Section 11700 of the Government Code and the State Administrative Manual shall apply to this chapter.

12112. Any contract for electronic data-processing goods or services, to be manufactured or performed by the contractor especially for the state and not suitable for sale to others in the ordinary course of the contractor's business may provide, on such terms and conditions as the department deems necessary to protect the state's interests, for progress payments for work performed and costs incurred at the contractor's shop or plant, provided that not less than 10 percent of the contract price is required to be withheld until final delivery and acceptance of the goods or services, and provided further, that the contractor is required to submit a faithful performance bond, acceptable to the department, in a sum not less than one-half of the total amount payable under the contract

securing the faithful performance of the contract by the contractor.

CHAPTER 514

An act to add Section 37 to the Code of Civil Procedure, relating to preferences in trials of civil actions.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 37 is added to the Code of Civil Procedure, to read:

37. (a) A civil action shall be entitled to preference, if the action is one in which the plaintiff is seeking damages for personal injuries which were alleged to have been caused by the defendant during the commission of a felony offense for which the defendant has been criminally convicted.

(b) The court shall endeavor to try the action within 120 days of the grant of preference.

CHAPTER 515

An act to amend Section 1203.1 of the Penal Code, relating to crimes.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 1203.1 of the Penal Code is amended to read:

1203.1. (a) The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that such suspension may continue for such period of time not exceeding the maximum possible term of such sentence, except as hereinafter set forth, and upon such terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the instant case; provided, however, that where the maximum possible term of such sentence is five years or less, then such period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in such sum not to exceed the

maximum fine provided by law in such case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; may provide for reparation in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

(b) The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such camp, farms, or other public work instead of in jail, and Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work as therein provided; and supervisors of the several counties are hereby authorized to provide public work and to fix the scale of compensation of such adult probationers in their respective counties. In all cases of probation the court is authorized to require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report the same to the probation officer and apply such earnings as directed by the court.

(c) In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve sentence at intermittent periods such sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

(d) The court may impose and require any or all of the above-mentioned terms of imprisonment, fine and conditions and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from such breach and generally and specifically for the reformation and rehabilitation of the probationer, that should the probationer violate any of the terms or conditions imposed by the court in the instant matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation; provided, however, that upon the

payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, such marks of identification of each probationer must be taken and a record thereof kept and preserved.

(e) Any other provision of law to the contrary notwithstanding, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

(f) If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 2 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

(g) When the court grants probation and suspends sentence after a plea of guilty or nolo contendere pursuant to Section 1192.5, it shall specify whether the negotiated sentence maximum will apply upon revocation of probation. If the negotiated sentence maximum is not to apply, the court shall inform the defendant that upon revocation the court could impose the longest sentence prescribed for the offense. If the court does not so inform the defendant, the negotiated maximum sentence shall apply.

CHAPTER 516

An act to add Section 1050.5 to the Penal Code, relating to criminal actions.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 1050.5 is added to the Penal Code, to read:

1050.5. Whenever an attorney for the prosecution or the defense in a criminal case knows of the inability of a material witness or the defendant to attend a hearing, including the trial, and the attorney intends to seek a continuance based upon the inability of the witness or defendant to attend, the attorney shall notify the opposing counsel of that intent at least two court days prior to the hearing. The court upon finding a violation of this section has occurred, may impose a penalty not to exceed one hundred dollars ($100) upon the attorney who has failed to comply with this section.

CHAPTER 517

An act to amend Sections 125.5, 125.7, 125.8, 656, 1705.5, 2311, 2545, 2559, 2672, 2971, 3131, 3430, 3533, 5122, 5527, 6872, 7028.3, 7071.5, 7071.6, 7071.8, 7071.9, 7071.10, 7071.11, 7074, 7074.5, 7398, 7873, 8693, 8697, 8697.2, 9533.6, 9547, 9547.1, 9851, 9884.14, 9890.81, 9891.35, 10072, 10133.25, 10237.8 10540, 11013.4, 17540.7, 17766.3, 18690, 22353, 22357, and 22390 of, to add Section 7071.12 to, and to repeal Sections 7071.12, 8697.6, 9547.4, 9702.3, 10238, 10541, 10542, 17773.1, and 22391 of, the Business and Professions Code, to amend Sections 1812.54, 1812.65, 1812.67, 1812.104, 1812.214, 1861.12, 1861.19, 1861.21, 1861.22, 1861.23, 1861a, 2845, 3061.5, 3080.10, 3080.11, 3248, 3415, 3439, and 3440 of, to add Sections 3441, 3442, and 3443 to, to add a chapter heading immediately preceding Section 3439 of, to add a chapter heading immediately preceding Section 3440 of, to add Chapter 3 (commencing with Section 3445) to Title 2 of Part 2 of Division 4 of, and to repeal Sections 1812.66, 1812.105, 2780, 2781, 2851, 2852, 3080.12, 3080.13, 3080.14, 3227, and 3228 of, the Civil Code, to amend Sections 166, 259, 340, 391, 391.3, 489.060, 489.230, 489.420, 493.040, 512.080, 514.030, 515.010, 515.020, 515.030, 529, 529.1, 529.2, 532, 566, 567, 571, 581, 674, 681a, 682a, 689, 689b, 710c, 726, 729, 731c, 917.1, 917.4, 917.5, 917.9, 921, 922, 1029.5, 1029.6, 1030, 1054, 1054.1, 1166a, 1210, 1213, 1215, 1220, 1255.240, and 1255.250 of, to repeal Chapter 2 (commencing with Section 304) of Title 5 of Part 1 of, and to repeal Sections 391.5, 431.60, 489.010, 489.020, 489.030, 489.040, 489.050, 489.070, 489.080, 489.090, 489.100, 489.110, 489.120, 490.030, 535, 676, 677, 677½, 678, 678½, 679, 679½, 680, 680½, 711, 711½, 712, 712½, 713, 713½, 920, 1035, 1041, 1042, 1054a, 1056, 1057, 1057a, 1057b, 1058, 1058a, and 1059 of, the Code of Civil Procedure, to amend Sections 6103 and 7601 of the Commercial Code, to amend Sections 800, 5710, 6513, 7710, 8513, 15038, 25100, 25216, 25530, 31113, and 31400 of the Corporations Code, to amend Sections 39450, 48269, 81400, and 90225 of, and to repeal Sections 48270 and 48271 of, the Education Code, to amend Sections 1824, 1881, 1893, 3102, 5611, 9004, 9517, 12206, 12207, 12223, 17202, 17203, 17203.1, 17205, 17213.5, 17623, 18346, 18370, 18495, 30606, 34101, and 34113 of, and to repeal Sections 12206.1, 12210, 12211, 12224, 17202.1, 17203.2, and 17204 of, the Financial Code, to amend Section 12150.6 of the Fish and Game Code, to amend Sections 11935, 55649, 57193, and 59958 of, and to repeal Section 57194 of, the Food and Agricultural Code, to amend Sections 1530, 1531, 8212, 8213, 8214, 8216, 8222, 25549.11, 26855.3, 50512, 50513, 53461, 53464, 53466, and 71682 of, to amend the heading of Article 4 (commencing with Section 1530) of Chapter 3 of Division 4 of Title 1 of, to repeal Sections 1502, 1503, 8217, and 8218 of, and to repeal Article 5 (commencing with Section 1550), Article 6 (commencing with Section 1580), and Article 7 (commencing with Section 1600), of Chapter 3 of Division 4 of Title 1 of, the Government Code, to amend Sections 495.5, 495.6, 515, 731, and 4042 of the Harbors and Navigation Code, to amend Sections 1318, 1376, 1392, 1560, 1712, 1773,

1812, 8734, 11574, 11586, and 42355 of, and to repeal Section 11126 of, the Health and Safety Code, to amend Sections 847, 1326, 1616, 1620, 1665, 1760.5, 1765, 1841, 11011, and 12629.43 of, and to repeal Sections 848, 849, 1300.5, 1664, 1766, 1803.5, 11696, 11698, 11711, and 11712 of, the Insurance Code, to amend Sections 240, 1684, 1687, 1688, 1693, 1697, 3712, 6000, 7303, 7343, and 7912 of, and to repeal Sections 1688.5, 1691, 1700.17, 1700.42, and 1700.43 of, the Labor Code, to amend Section 925 of the Military and Veterans Code, to amend Sections 706, 1447, 1448, 11202, 11232, 11308, and 11314 of, and to add Section 1276 to, the Penal Code, to amend Sections 287, 541, 549, 550, 553.3, 553.5, 580, 684, 759, 2329, 2334, 2335, and 3150 of, and to repeal Sections 541.3, 545, 546, 547, 548, 551, 552, 553, 553.6, 554, 2331, 2332, and 2336 of, the Probate Code, to amend Sections 10200, 10221, and 10225 of the Public Contract Code, to amend Sections 3205.5, 3344, 3728.5, and 4606 of the Public Resources Code, to amend Sections 1074, 3575, 4840, 6010, 6301, and 16541 of, to repeal Section 4839 of, and to repeal Article 3 (commencing with Section 6066) of Chapter 1 of Division 3 of, the Public Utilities Code, to amend Sections 2954, 2955, 3006, 7390, 7391, 7401, 7486, 30141, 32102, and 41117 of, and to repeal Sections 7488, 7489, 14178, 15937, 30145, and 32105 of, the Revenue and Taxation Code, to amend Sections 1052, 1188, 5242, 5254, 5291, 10502, 26022, 30158, 30159, 30867, 31127, and 31128 of, the Streets and Highways Code, to amend Sections 1815, 4158, 9801, 9924, 11102, 11102.1, 11110, 11301.5, 11612, 11614, 11710, 11710.2, 11713, 16434, and 38055 of, and to repeal Sections 11301.3 and 11710.1 of, the Vehicle Code, and to amend Sections 2020, 22308, 43308, 50658, 50659, 60339, 70176, 71689.3, 75632, 75633, and 75902 of the Water Code, relating to statutory bonds.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 125.5 of the Business and Professions Code is amended to read:

125.5. (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. As used in this section, "board" includes commission, bureau, division, agency and a medical quality review committee.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department

may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

SEC. 2. Section 125.7 of the Business and Professions Code is amended to read:

125.7. In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 2 (commencing with Section 500), or any initiative act referred to in such division, has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 2, may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he is licensed.

(b) Such order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; however, if the licensee requests

a hearing on the accusation, the board must provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 3. Section 125.8 of the Business and Professions Code is amended to read:

125.8. In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he is licensed.

(b) Such order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; however, if the licensee requests a hearing on the accusation, the board must provide the licensee with

a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 4. Section 656 of the Business and Professions Code is amended to read:

656. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of any provision of this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the State Board of Optometry, the Board of Medical Quality Assurance of the State of California, the Board of Osteopathic Examiners, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 5. Section 1705.5 of the Business and Professions Code is amended to read:

1705.5. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of 10 or more persons holding licenses to practice dentistry issued under this chapter, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 6. Section 2311 of the Business and Professions Code is amended to read:

2311. Whenever any person has engaged in or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the board, any division of the board, or of 10 or more persons licensed as physicians and surgeons or as podiatrists in this state may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 7. Section 2545 of the Business and Professions Code is amended to read:

2545. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the State Board of Optometry, the Division of Allied

Health Professions of the Board of Medical Quality Assurance of the State of California, the Board of Osteopathic Examiners of the State of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 8. Section 2559 of the Business and Professions Code is amended to read:

2559. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of any provision of this chapter, or Chapter 5.4 (commencing with Section 2540), the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the Division of Allied Health Professions of the Board of Medical Quality Assurance, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 9. Section 2672 of the Business and Professions Code is amended to read:

2672. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the Division of Allied Health Professions or the examining committee or 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 10. Section 2971 of the Business and Professions Code is amended to read:

2971. Whenever any person other than a licensed psychologist has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the Division of Allied Health Professions, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The division may commence action in the superior court under the provisions of this section on its own motion, or on the written request of the committee.

SEC. 11. Section 3131 of the Business and Professions Code is amended to read:

3131. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense

against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the board, the Attorney General, the district attorney of the county, or on application of 10 or more persons holding certificates issued under this chapter.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525 of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 12. Section 3430 of the Business and Professions Code is amended to read:

3430. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court for the county wherein the acts or practices take place or are about to take place, may issue an injunction or other appropriate order, restraining such conduct on application of the board, the Attorney General, or the district attorney of the county. If such acts or practices constitute, or will constitute, an offense against Section 3306.5, such application to the superior court may be made by the State Board of Optometry. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 13. Section 3533 of the Business and Professions Code is amended to read:

3533. Whenever any person has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the board, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The board or the committee may commence action in the superior court under the provisions of this section.

SEC. 14. Section 5122 of the Business and Professions Code is amended to read:

5122. Whenever in the judgment of the board, or with its approval any administrative committee, any person who has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by the court.

SEC. 15. Section 5527 of the Business and Professions Code is amended to read:

5527. Whenever any person has engaged in or is about to engage in any act or practice which constitutes or which will constitute an

offense against this chapter, the superior court of the county in which the offense has occurred or is about to occur, on application of the board, may issue an injunction or other appropriate order restraining such act or practice.

The proceedings authorized by this section shall be in accordance with the provisions contained in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 16. Section 6872 of the Business and Professions Code is amended to read:

6872. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a collection agency without first having obtained a license pursuant to this chapter, or carries on such business after the revocation or expiration of any license or during the period of suspension of any license, may, on application of the director, issue an injunction or other appropriate order restraining such conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

SEC. 17. Section 7028.3 of the Business and Professions Code is amended to read:

7028.3. In addition to all other remedies, when it appears to the registrar, either upon complaint or otherwise, that a licensee has engaged in, or is engaging in, any act, practice, or transaction which constitutes a violation of this chapter whereby another person may be substantially injured, or that any person, who does not hold a state contractor's license in any classification, has engaged in, or is engaging in, any act, practice, or transaction which constitutes a violation of this chapter, whether or not there is substantial injury, the registrar may, either through the Attorney General or through the district attorney of the county in which the act, practice, or transaction is alleged to have been committed, apply to the superior court of that county or any other county in which such person maintains a place of business or resides, for an injunction restraining such person from acting in the capacity of a contractor without a license in violation of this chapter, or from acting in violation of this chapter when another person may be substantially injured, and, upon a proper showing, a temporary restraining order, a preliminary injunction, or a permanent injunction shall be granted.

SEC. 18. Section 7071.5 of the Business and Professions Code is amended to read:

7071.5. The contractor's bond required by this article shall be executed by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant. The contractor's bond shall be for the benefit of the following:

(a) Any homeowner contracting for home improvement upon the

homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.

(b) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(c) Any employee of the licensee damaged by the licensee's failure to pay wages.

(d) Any express trust fund, or the trustees of any express trust fund, damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund is limited to actual loss sustained by the trust fund due to a licensee's failure to pay the fringe benefits. Liability on the contractor's bond shall be limited to the difference between the actual loss to the trust fund and the amount realized by the trust fund from the proceeds of any other bond required by a collective-bargaining agreement to secure the payment of fringe benefits. The trust fund shall diligently proceed against any such other bond. If an eligible employee is not represented by a union, the damaged employee may enforce the liability on the bond on the employee's own behalf to recover fringe benefits. As used in this subdivision:

(1) "Eligible employees" means the employees of the signatory licensee performing work covered by the applicable collective-bargaining agreement for whom payment of fringe benefits should have been made and who would be entitled to credit towards fringe benefits pursuant to the terms and provisions of the express trust funds if payment had in fact been made by the signatory licensee.

(2) "Express trust fund" means an express trust fund established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits.

SEC. 19. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) Except as provided in Section 7071.8 and subdivision (b), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of five thousand dollars ($5,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.

(b) Notwithstanding subdivision (a), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license for the license classification of swimming pool contractor, that the applicant file or have on file a contractor's bond in the sum of ten thousand dollars ($10,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.

(c) Notwithstanding any other provision of the law to the contrary, the board shall require, as a condition to the continued

maintenance of any active license, that the holder of a license file, or have on file, on and after January 1, 1980, a contractor's bond in the sum of five thousand dollars ($5,000); provided, that the holder of a license for the classification of swimming pool contractor file, or have on file, a contractor's bond in the sum of ten thousand dollars ($10,000).

SEC. 20. Section 7071.8 of the Business and Professions Code is amended to read:

7071.8. (a) This section applies to an application for a license, or for restoration of a license, made by any of the following persons:

(1) Any person whose license has been suspended or revoked as a result of disciplinary action for violation of this chapter.

(2) Any person who was an officer, director, member, partner or qualifying individual for a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of the licensee's license and who had knowledge of or participated in the act or omission which was the cause for the disciplinary action for violation of this chapter.

(3) Any partnership, corporation, firm or association of which any officer, director, member, partner or qualifying person has had the license suspended or revoked as a result of disciplinary action for violation of this chapter.

(4) Any partnership, corporation, firm or association of which any officer, director, member, partner or qualifying person was a member, officer, director, partner or qualifying person of a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of the license, and who had knowledge of or participated in the act or omission which was the cause for the disciplinary action for violation of this chapter.

(b) The board shall require as a condition precedent to the issuance, reissuance or restoration of a license to the applicant, or removal of suspension, that the applicant file or have on file a contractor's bond in a sum to be fixed by the registrar based upon the seriousness of the violation, but which sum shall not be less than three times nor more than 10 times that amount required by Section 7071.6. The bond shall remain on file with the registrar for a period of at least two years and for such additional time as the registrar may determine. Each applicant or licensee shall be required to file only one contractor's bond of the type described in this section.

(c) Nothing contained in this section shall apply to a person or firm whose license has been suspended or revoked for a failure to comply with Section 7083.

SEC. 21. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. (a) In addition to the contractor's bond required pursuant to Sections 7071.5 to 7071.8, inclusive, the board shall require, as a condition precedent to the issuance, reinstatement, reactivation or reissuance of a license and, as a condition precedent to the renewal of a license, that the qualifying individual as referred

to in Sections 7068 and 7068.1, when the qualifying individual is not either the proprietor, a general partner, or joint licensee, shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of five thousand dollars ($5,000). In the event the responsible managing officer of a corporation owns 10 percent or more of the voting stock of the corporation, the officer shall not be required to file or have on file a contractor's bond as provided for in Section 7071.10. The registrar shall determine the nature and form of the proof required of the responsible managing officer applying for this exemption. No bond shall be required of the holder of an inactive license during the period the license is inactive.

(b) Notwithstanding any other provision of the law to the contrary, the board shall require, as a condition to the continued maintenance of any active license, that the qualifying individual, as referred to in Sections 7068 and 7068.1, when such individual is not personally either the proprietor, a general partner, or joint licensee, file, or have on file, on and after January 1, 1980, a contractor's bond in the sum of five thousand dollars ($5,000).

SEC. 22. Section 7071.10 of the Business and Professions Code is amended to read:

7071.10. (a) The qualifying individual's bond required by this article shall be executed by an admitted surety insurer in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual. The qualifying individual's bond shall be for the benefit of the following persons:

(1) Any homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.

(2) Any person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

(3) Any employee of the licensee damaged by the licensee's failure to pay wages.

(4) The trustees of any express trust fund damaged as the result of the licensee's failure to pay fringe benefits for eligible employees represented by the union which is signatory to the collective-bargaining agreement. Damage to an express trust fund is limited to actual loss sustained by a licensee's failure to pay the subject fringe benefits and after all other sources of recovery have been realized by the express trust fund. If an eligible employee is not represented by a union, the damaged employee may enforce the liability on the bond on the employee's own behalf to recover fringe benefits. As used in this paragraph:

(A) "Eligible" means entitlement to fringe benefits pursuant to the terms and provisions of the express trust fund.

(B) "Express trust fund" means an express trust fund established pursuant to a collective-bargaining agreement and to which the licensee is obligated to make payments on account of fringe benefits.

(b) The qualifying individual's bond shall not be required in

addition to the contractor's bond when the qualifying individual is himself the proprietor under subdivision (a) or a general partner under subdivision (b) of Section 7068.

SEC. 23. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) A copy of the complaint in a civil action commenced by a person claiming against a bond required by this article shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The claim of any employee of the contractor for wages and fringe benefits shall be a preferred claim against the bond. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of three thousand dollars ($3,000). If any bond which may be required is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims with priority to claims for wages and fringe benefits. Any action, other than an action to recover fringe benefits, against a bond filed by an active licensee shall be brought within two years after the expiration of the license period or periods for which a bond has been provided, or within two years of the date the license of the active licensee was inactivated by the board, whichever first occurs. A claim to recover fringe benefits shall be brought within six months from the date that the fringe benefit delinquencies were discovered, but in no event shall a civil action thereon be brought later than two years from the date the fringe benefit contributions were due.

(b) When the surety makes payment on any claim against a bond required by this article, whether or not payment is made through a court action or otherwise, the surety shall, within 30 days of the payment, notify the registrar. The notice shall contain, on a form prescribed by the registrar, the name and license number of the contractor, the surety bond number, the amount of payment, the statutory basis upon which the claim is made, and the names of the person or persons to whom payments are made.

(c) Any judgment or admitted claim against any bond required by this article shall constitute grounds for disciplinary action against the licensee. The license may not be reissued or reinstated while any judgment or admitted claim in excess of the amount of the bond remains unsatisfied. Further, the license may not be reissued or reinstated while any surety remains unreimbursed for loss and expense sustained on any bond issued for the licensee or for any entity of which any officer, director, member, partner, or qualifying person was an officer, director, member, partner, or qualifying person of the licensee while the licensee was subject to disciplinary action under this section. The board shall require the licensee to file a new bond in an amount as required pursuant to Section 7071.8.

(d) Legal fees may not be charged against the bond by the board.

(e) In any case in which a claim is filed against a deposit given in lieu of a bond by any employee or by an employee organization on behalf of an employee, concerning wages or fringe benefits based upon the employee's employment, claims for the nonpayment thereof shall be filed with the Labor Commissioner. The Labor Commissioner shall, pursuant to the authority vested by Section 96.5 of the Labor Code, conduct hearings to determine whether or not the wages or fringe benefits should be paid to the complainant. Upon a finding by the commissioner that the wages or fringe benefits should be paid to the complainant, the commissioner shall notify the registrar of the findings. The registrar shall not make payment from the deposit on the basis of findings by the commissioner for a period of 10 days following determination of the findings. If, within the period, the complainant or the contractor files written notice with the registrar and the commissioner of an intention to seek judicial review of the findings pursuant to Section 11523 of the Government Code, the registrar shall not make payment, if an action is actually filed, except as determined by the court. If, thereafter, no action is filed within 60 days following determination of findings by the commissioner, the registrar shall make payment from the deposit to the complainant.

SEC. 24. Section 7071.12 of the Business and Professions Code is repealed.

SEC. 24.5. Section 7071.12 is added to the Business and Professions Code, to read:

7071.12. Instead of the bond provided by this article a deposit may be given pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure.

SEC. 25. Section 7074 of the Business and Professions Code is amended to read:

7074. (a) An application for an original license shall become void when any of the following occurs:

(1) The applicant or the examinee for the applicant, after having been notified to do so, fails to appear for the qualifying examination within six months from the date of filing the application.

(2) The applicant or the examinee for the applicant has failed the qualifying examination, and after having been notified to do so, fails to appear for reexamination within six months from the date of filing an application for reexamination.

(3) The applicant or the examinee for the applicant has failed to achieve a passing grade in the qualifying examination within one year from the date of filing the application.

(4) The applicant, after having been notified to do so, fails to pay the initial license fee within six months from the date of such notice.

(5) The applicant, after having been accepted for filing and before issuance of the license, withdraws the application.

(6) The applicant, after having been notified to do so, fails to file

within six months from the date of such notice any bond which may be required pursuant to this chapter.

(7) The application is denied after a hearing conducted in accordance with the provisions of this chapter.

(b) An application voided pursuant to the provisions of this section shall remain in possession of the registrar for such period as the registrar deems necessary and shall not be returned to the applicant. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

SEC. 26. Section 7074.5 of the Business and Professions Code is amended to read:

7074.5. An application for an additional classification pursuant to the provisions of Section 7059 or an application to replace a responsible managing officer or employee pursuant to the provisions of Section 7068.2 shall become void when:

(a) The applicant or the examinee for the applicant, after having been scheduled for the qualifying examination, fails to attain a passing grade within six months from the date of filing the application.

(b) The applicant, prior to approval and after acceptance for filing, withdraws his application.

(c) The application is denied after a hearing conducted in accordance with the provisions of this chapter.

(d) The applicant, or his responsible managing officer or employee, after having been notified to do so, fails to file within six months from the date of such notice any bond which may be required pursuant to this chapter.

An application voided pursuant to the provisions of this section shall remain in possession of the registrar for such period as he deems necessary and shall not be returned to the applicant. Any reapplication shall be accompanied by the fee fixed by this chapter.

SEC. 27. Section 7398 of the Business and Professions Code is amended to read:

7398. (a) Every school shall post with the board a surety bond executed by an admitted surety insurer in the amount of five thousand dollars ($5,000).

(b) The bond shall be in the form approved by the board and shall be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any and all contracts, verbal or written, made by the school to furnish instruction to any person. The bond shall be to the State of California in favor of every person who pays or deposits any money with the school as payment for any instruction. Every bond shall continue in force and effect until notice of termination is given by registered mail to the board and every bond shall set forth this fact.

SEC. 28. Section 7873 of the Business and Professions Code is amended to read:

7873. Whenever any person has engaged in or is about to engage in any act or practice which constitutes or which, in the opinion of

the board, will constitute an offense against this chapter, the superior court of the county in which the offense has occurred or is about to occur, on application of the board, may issue an injunction or other appropriate order restraining such act or practice.

The proceedings authorized by this section shall be in accordance with the provisions contained in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 29. Section 8693 of the Business and Professions Code is amended to read:

8693. In lieu of the insurance policy specified in this article an applicant for a license or renewal of a license may file with the board a bond executed by an admitted surety insurer in the penalty of twenty-five thousand dollars ($25,000) with the State of California as obligee.

SEC. 30. Section 8697 of the Business and Professions Code is amended to read:

8697. Each operator licensed under the provisions of this chapter, except an operator who is an employee of another operator, shall maintain a bond executed by an admitted surety insurer in the amount of two thousand dollars ($2,000).

SEC. 31. Section 8697.2 of the Business and Professions Code is amended to read:

8697.2. The bonds required by this article shall be in favor of the State of California for the benefit of any person who, after entering into a contract with the licensee, is damaged by fraud or dishonesty of the licensee in the performance of the contract, or any person who is damaged as a result of a violation of this chapter by the licensee.

SEC. 32. Section 8697.6 of the Business and Professions Code is repealed.

SEC. 33. Section 9533.6 of the Business and Professions Code is amended to read:

9533.6. The operation of any establishment, plant, shop, store, school, or agency in violation of this chapter may be enjoined by the superior court of any county upon petition by the board. Proceedings under this section shall be conducted in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 34. Section 9547 of the Business and Professions Code is amended to read:

9547. (a) The board shall require that all licensees that conduct, maintain, or operate establishments licensed by the board file with the board a surety bond in the sum of one thousand dollars ($1,000) unless, after a determination as provided in this section, the bond is waived. The bond shall be executed by an admitted surety insurer and shall be in favor of the people of the State of California. The total aggregate liability on the bond shall in no event exceed the face amount of the bond. The bond shall be conditioned that the principal is liable for fraud of or all claims for damaged articles of clothing of persons with whom the licensee may deal as a licensee.

(b) If upon application and such proof as the board may require, the board determines that the financial responsibility of any licensee is acceptable in the public interest, the board may waive the filing of the bond in accordance with such conditions as may be prescribed by the rules and regulations of the board.

(c) Payments which are to be made pursuant to any bond which is required by this section shall be limited to payments of claims which have been approved by the final decision of a court.

SEC. 35. Section 9547.1 of the Business and Professions Code is amended to read:

9547.1. Any person injured by the breach of any condition to secure which the bond is given may enforce the liability on the bond for not in excess of one hundred dollars ($100) suffered by reason of the breach.

SEC. 36. Section 9547.4 of the Business and Professions Code is repealed.

SEC. 37. Section 9702.3 of the Business and Professions Code is repealed.

SEC. 38. Section 9851 of the Business and Professions Code is amended to read:

9851. The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a service dealer in violation of the provisions of this chapter, or any regulation thereunder, shall, on application of the director, issue an injunction or other appropriate order restraining such conduct.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

SEC. 39. Section 9884.14 of the Business and Professions Code is amended to read:

9884.14. The superior court in and for the county wherein any person carries on, or attempts to carry on, a business as an automotive repair dealer or as a mechanic in violation of the provisions of this chapter, or any regulation made pursuant to this chapter, shall, on application of the director or the chief, issue an injunction or other appropriate order restraining such conduct. This section shall be cumulative to and shall not prohibit the enforcement of any other law.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director or chief shall not be required to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

SEC. 40. Section 9890.81 of the Business and Professions Code is amended to read:

9890.81. The surety bond shall be payable to the people of the State of California and shall be conditioned that the person applying

for the license will comply with this chapter.

SEC. 41. Section 9891.35 of the Business and Professions Code is amended to read:

9891.35. A tax preparer shall deposit with the division, prior to registration or registration renewal, a bond executed by an admitted surety insurer payable to the people of the State of California in the penal sum of one thousand dollars ($1,000). The bond shall be conditioned that the person applying for registration or registration renewal will comply with this chapter and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit or any unlawful acts or omissions by the tax preparer, or its agents, employees, or representatives while acting in the scope of their agency, employment or representation.

SEC. 42. Section 10072 of the Business and Professions Code is amended to read:

10072. The commissioner shall execute to the people of the State of California a bond in the penal sum of ten thousand dollars ($10,000), to be approved by the Governor, for the faithful discharge of the duties of the office.

SEC. 43. Section 10133.25 of the Business and Professions Code is amended to read:

10133.25. The exemption provided by paragraph (1) of subdivision (i) of Section 10133.1 is conditioned upon compliance with all of the following:

(a) An application has been filed with the commissioner on a form to be prescribed by the commissioner, which application shall include but not be limited to the name and address of the firm, names of the owners, and, if a corporation, the officers and directors of the firm, the names of the lenders on whose behalf the collections are to be made, and a financial statement as of the close of the last fiscal or calendar year of the applicant.

(b) The application shall be accompanied by a fee of two hundred dollars ($200). The applicant shall be notified and the exemption effective only upon satisfaction of all of the provisions of this section. The exemption is valid for one year from the date of issuance. Annual renewals shall be issued upon payment of a renewal fee of two hundred dollars ($200) and a showing of compliance with the provisions of this section.

(c) The applicant shall agree to comply with those provisions of Sections 10145 and 10148 and regulations of the Real Estate Commissioner relating to trust fund handling applicable to real estate licensees.

(d) The applicant shall file and maintain with the commissioner both of the following:

(1) A bond satisfactory to the commissioner in the amount of five thousand dollars ($5,000), issued by an admitted surety insurer approved by the commissioner, and running to the people of the State of California. The board shall be conditioned that the applicant will obey all of the provisions of this section and of Sections 10145 and

10148 and regulations of the Real Estate Commissioner relating to trust fund handling applicable to real estate licensees, and that the applicant will perform and comply with all obligations assumed and will honestly and faithfully apply all funds received. When an action is commenced on the bond the commissioner may require the filing of a new bond. Immediately upon the recovery in any action on the bond the applicant shall file a new bond.

(2) A bond in an amount sufficient to cover the maximum liability for collections of loan payments plus tax, insurance and other loan-servicing impound funds in the custody or control of the applicant. The bond shall be satisfactory to the commissioner, executed by an admitted surety insurer approved by the commissioner, to indemnify the applicant against fraudulent or dishonest acts, or loss of money or securities deposited in trust with the applicant. The sufficiency of the sureties on the bond are at all times subject to the approval of the commissioner. The bonds shall be filed in the commissioner's office.

(e) The applicant shall agree to comply with such other requirements of the commissioner as are consistent with the provisions of this section to protect clients' funds.

SEC. 44. Section 10237.8 of the Business and Professions Code is amended to read:

10237.8. Every real property securities dealer shall file and maintain with the commissioner a bond in the penal sum of five thousand dollars ($5,000), executed by an admitted surety insurer approved by the commissioner, and running to the people of the State of California, for the use and benefit of interested persons. The bond shall be conditioned that the dealer will obey all the provisions of this article, will perform and comply with all obligations assumed by the dealer and will honestly and faithfully apply all funds received.

SEC. 45. Section 10238 of the Business and Professions Code is repealed.

SEC. 46. Section 10540 of the Business and Professions Code is amended to read:

10540. Every mineral, oil and gas licensee shall file and maintain with the commissioner a bond in the penal sum of five thousand dollars ($5,000), executed by an admitted surety insurer, and running to the people of the State of California. The bond shall be conditioned that the licensee will obey all the provisions of this part relating to mineral, oil and gas brokerage, and complete compliance with all obligations assumed by the licensee under the mineral, oil and gas license.

SEC. 47. Section 10541 of the Business and Professions Code is repealed.

SEC. 48. Section 10542 of the Business and Professions Code is repealed.

SEC. 49. Section 11013.4 of the Business and Professions Code is amended to read:

11013.4. If a subdivision is not subject to a blanket encumbrance, as defined in Section 11013, it is unlawful for the owner, subdivider, or agent to sell or lease lots or parcels within a subdivision unless one of the following conditions is complied with:

(a) The entire sum of money paid or advanced by the purchaser or lessee of any lot or parcel, or such portion thereof as the commissioner determines is sufficient to protect the interest of the purchaser or lessee, is deposited into an escrow depository acceptable to the commissioner or into a trust account acceptable to the commissioner to be held in the escrow depository or trust account until the legal title or other interest contracted for, whether title of record or other interest, is delivered to the purchaser or lessee or until (1) either the owner, subdivider, or agent or the purchaser or lessee defaults under the contract of sale or lease and a determination is made as to the disposition of the money; or (2) the owner, subdivider, or agent orders the return of the money to the purchaser or lessee.

(b) A bond to the State of California is furnished to the commissioner for the benefit and protection of purchasers or lessees of the lots or parcels, in such amount and subject to such terms as may be approved by the commissioner, which provides for the return of the money paid or advanced by any purchaser or lessee, for or on account of the purchase or lease of any lot or parcel in the event that the owner, subdivider, or agent does not, within the time specified in the contract to sell or lease, or any extension thereof, deliver the legal title or other interest contracted for, whether title of record or other interest, to the purchaser or lessee for any reason other than an uncured default of the purchaser or lessee.

(c) An association, approved by the commissioner, files with the commissioner a certificate in which it certifies that the owner, subdivider, or agent is a member of the association and that there is on file with the commissioner a bond, of the kind specified in subdivision (b), which has been approved by the commissioner as to amount, terms and coverage, and which is for the benefit and protection of all purchasers and lessees of subdivided lots or parcels to be sold or leased by members of the association (all which the commissioner may, at the commissioner's option, verify or require to be verified).

(d) Proof, satisfactory to the commissioner, is furnished: (1) that security provided or contemplated to be given pursuant to the provisions of Section 66493 and Chapter 5 (commencing with Section 66499) of Division 2 of Title 7 of the Government Code, has been given in an amount, the commissioner approves, or that the giving of such security is unnecessary; and (2) that a lien and completion bond or bonds, approved by the commissioner as to amount, terms and coverage and including within its scope all onsite construction work to be undertaken on the lots or parcels, has been written and issued by an admitted surety insurer; provided, however, that this subdivision applies only to an owner, subdivider, or agent who

proposes to sell or lease the lots or parcels with improvements thereon in the nature of residential structures.

(e) The entire sums of moneys paid or advanced by the purchasers or lessees of the lots or parcels, or such portion of the money as the commissioner determines is sufficient to protect the interest of the purchaser or lessee, is deposited into an escrow depository or other agency, acceptable to the commissioner, to be held, in whole or in part, by the escrow depository or other agency as provided by subdivision (a) or, at the election of the owner, subdivider, or agent, to be disbursed, in whole or in part, for the construction of residential or other structures to be built on the lots or parcels within the subdivision, or such unit or units thereof as the commissioner determines, in such manner and pursuant to such instructions as the commissioner approves; provided, however, that the provisions of this subdivision apply only to an owner, subdivider, or agent who proposes to sell or lease the lots or parcels with improvements thereon in the nature of residential structures.

(f) There is conformance to such other alternative requirement or method the commissioner deems acceptable to carry into effect the intent and provisions of this part.

SEC. 50. Section 17540.7 of the Business and Professions Code is amended to read:

17540.7. (a) "Adequate bond" means a bond executed by an admitted surety insurer in an amount at least equal to the amount required under the contract between the travel promoter and the transportation carrier or company or person providing any other services in conjunction with such transportation, for the benefit of every person injured by the wrongful act of the principal acting in the course and scope of his or her occupation or business or by any official, agent or employee of the principal acting in the course or scope of his or her employment or agency. A travel promoter filing such a bond shall maintain the bond in force in the proper amount as a condition of continuing to engage in business.

(b) No person may recover upon the bond a sum greater than that which such person paid to the principal, provided that this limitation shall not restrict a person from recovering sums greater than those paid to the principal from sources other than the bond.

SEC. 51. Section 17766.3 of the Business and Professions Code is amended to read:

17766.3. The costs incurred by the commissioner or a receiver in performing the duties set forth in Sections 17766 and 17766.1 shall constitute a proper charge against the trading stamp company, or, in the event of the trading stamp company's failure to pay, against the bond filed by that company or if no bond is filed against the money or securities filed with the State Treasurer. The costs shall constitute a prior claim against such company, the bond, or the money or securities filed with the State Treasurer.

SEC. 52. Section 17773.1 of the Business and Professions Code is repealed.

SEC. 53. Section 18690 of the Business and Professions Code is amended to read:

18690. (a) Before any license is granted to any club to conduct, hold, or give a boxing contest or a sparring match, other than an amateur boxing contest or sparring match, or to conduct, hold, or give a wrestling match or a wrestling exhibition, the applicant therefor shall file a bond of ten thousand dollars ($10,000) with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of the taxes herein imposed. Only one such bond shall be required of a club regardless of the number of licenses held as long as no two events are staged by that club on the same date.

(b) Before any license is granted to any club to conduct, hold, or give an amateur boxing contest, sparring or wrestling match for which an admission fee is received, the applicant therefor shall file a bond of not less than one thousand dollars ($1,000) with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of taxes herein imposed. Only one such bond shall be required of a club regardless of the number of licenses held as long as no two events are staged by that club on the same date.

The professional and amateur club bonds shall guarantee, in order of priority, the payment of all taxes due and payable to the state, the payment of contributions for medical insurance or for an emergency medical fund, and to the pension and disability fund, the payment of the purses to the competitors, and the repayment to consumers of purchased tickets. The circumstances and allocations of bond payment shall be determined by the commission.

SEC. 54. Section 22353 of the Business and Professions Code is amended to read:

22353. A certificate of registration shall be accompanied by a bond of two thousand dollars ($2,000) which is executed by an admitted surety insurer and conditioned upon compliance with the provisions of this chapter and all laws governing the service of process in this state. The total aggregate liability on the bond is limited to two thousand dollars ($2,000).

SEC. 55. Section 22357 of the Business and Professions Code is amended to read:

22357. (a) Any person who recovers damages in any action or proceeding for injuries caused by a service of process which was made by a registrant and did not comply with the provisions of law governing the service of process in this state may recover the amount of the damages from the bond required by Section 22353.

(b) Whenever there has been a recovery against a bond under subdivision (a), the registrant shall file a new bond within 30 days to reinstate the bond or cash deposit to the amount required by Section 22353. If the registrant does not file the bond within 30 days, the certificate of registration shall be revoked and the remainder of the bond forfeited to the county treasury.

SEC. 56. Section 22390 of the Business and Professions Code is amended to read:

22390. The bond required by Section 22389 shall be in favor of the State of California for the benefit of any person who, after entering into a contract for invention development services with an invention developer is damaged by fraud or dishonesty or failure to provide the services of the invention developer in performance of the contract.

SEC. 57. Section 22391 of the Business and Professions Code is repealed.

SEC. 58. Section 1812.54 of the Civil Code is amended to read:

1812.54. (a) Every contract for dance studio lessons and other services shall provide that performance of the agreed-upon lessons will begin within 12 months from the date the contract is entered into.

(b) Every contract for dance studio lessons and other services shall further provide:

(1) That the contract may be canceled within 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and all moneys paid pursuant to the contract shall be refunded within 10 days of receipt of the notice of cancellation, except that payment shall be made for any dance studio lessons and other services received prior to cancellation.

(2) That the contract may be canceled after 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and the student canceling the contract shall be thereafter entitled to a refund, within 10 days of receipt by the dance studio of notice of cancellation, of all moneys paid pursuant to the canceled contract with the exception that the dance studio shall be entitled to 10 percent of the unpaid balance pursuant to the terms of the canceled contract, and except further that, in addition to the foregoing, payment shall be made for any dance studio lessons and other services received prior to the cancellation.

(c) Every contract for dance studio lessons and other services shall contain a written statement of the hourly rate charged for each type of lessons for which the student has contracted. If the contract includes dance studio lessons which are sold at different per-hour rates, the contract shall contain separate hourly rates for each different type of lessons sold. All other services for which the student has contracted which are not capable of a per-hour charge shall be set forth in writing in specific terms. The statement shall be contained in the dance studio contract before the contract is signed by the buyer.

(d) Every dance studio subject to the provisions of Sections 1812.64 and 1812.65 shall include in every contract for dance studio lessons or other services a statement that the studio is bonded and that information concerning the bond may be obtained by writing to the office of the Secretary of State, 111 Capitol Mall, Sacramento,

California 95814. If the studio has elected to make a deposit in lieu of procuring a bond, the contract shall contain a description of the deposit.

SEC. 59. Section 1812.65 of the Civil Code is amended to read:

1812.65. The bond required by Section 1812.64 shall be in favor of the State of California for the benefit of any person who, after entering into a contract for dance studio lessons and other services with the dance studio, is damaged by fraud or dishonesty or failure to provide the services of the studio in performance of the contract.

SEC. 60. Section 1812.66 of the Civil Code is repealed.

SEC. 61. Section 1812.67 of the Civil Code is amended to read:

1812.67. Sections 1812.64 and 1812.65 do not apply to any dance studio which requires or receives less than fifty dollars ($50) in advance payments from or on behalf of each student for dance lessons or other services which are to be rendered by the studio in the future and such advance payments are not required or received by the studio from each student more frequently than once every 30 days.

SEC. 62. Section 1812.104 of the Civil Code is amended to read:

1812.104. The bond required by Section 1812.103 shall be in favor of the State of California for the benefit of any person who is damaged by any violation of this title or by fraud or dishonesty or failure to provide the services of the discount buying organization in performance of the contract. The surety shall be liable only for the actual damages plus restitution and not the treble damages permitted under subdivision (a) of Section 1812.123.

SEC. 63. Section 1812.105 of the Civil Code is repealed.

SEC. 64. Section 1812.214 of the Civil Code is amended to read:

1812.214. (a) Every seller of seller-assisted marketing plans other than a California corporation shall file with the Secretary of State an irrevocable consent appointing the Secretary of State or successor in office to act as the seller's attorney to receive service or any lawful process in any noncriminal suit, action or proceeding against the seller or the seller's successor, executor or administrator, which may arise under this title. When service is made upon the Secretary of State, it shall have the same force and validity as if served personally on the seller. Service may be made by leaving a copy of the process in the office of the Secretary of State, but it shall not be effective unless:

(1) The plaintiff forthwith sends by first-class mail a notice of the service upon the Secretary of State and a copy of the process to the defendant or respondent at the last address on file with the Secretary of State; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return date of the process, if any, or within such further time as the court allows.

(b) If, pursuant to subdivision (c) of Section 1812.204, a seller must obtain a surety bond or establish a trust account, the following procedures apply:

(1) If a bond is obtained, a copy of it shall be filed with the office of the Secretary of State; if a trust account is established, notification of the depository, the trustee and the account number shall be filed with the office of the Secretary of State.

(2) The bond or trust account required shall be in favor of the State of California for the benefit of any person who is damaged by any violation of this title or by the seller's breach of a contract subject to this title or of any obligation arising therefrom. The trust account shall also be in favor of any person damaged by such practices.

(3) Any person claiming against the trust account for a violation of this title may maintain an action at law against the seller and the trustee. The surety or trustee shall be liable only for actual damages and not the punitive damages permitted under Section 1812.218. The aggregate liability of the trustee to all persons damaged by a seller's violation of this title shall in no event exceed the amount of the trust account.

(4) The bond or the trust account shall be in an amount equal to the total amount of the "initial payment" section of all seller-assisted marketing plan contracts the seller has entered into during the previous year or three hundred thousand dollars ($300,000), whichever is less, but in no case shall the amount be less than fifty thousand dollars ($50,000). The amount required shall be adjusted twice a year, no later than the tenth day of the first month of the seller's fiscal year and no later than the tenth day of the seventh month of the seller's fiscal year. A seller need only establish a bond or trust account in the amount of fifty thousand dollars ($50,000) at the commencement of business and during the first six months the seller is in business. By the tenth day of the seller's seventh month in business, the amount of the bond or trust account shall be established as provided for herein as if the seller had been in business for a year.

SEC. 65. Section 1861.12 of the Civil Code is amended to read:

1861.12. The writ of possession shall meet all of the following requirements:

(a) Be directed to the levying officer within whose jurisdiction the property is located.

(b) Generally describe the property to be seized.

(c) Specify the apartment, motel, or other boarding premises that may be entered to take possession of the property, or some part of it.

(d) Direct the levying officer to levy on the property pursuant to Section 1861.18 if found on the described premises, and to retain custody of it until released or sold pursuant to Section 1861.19.

(e) Inform the defendant of the right to object to the plaintiff's undertaking, a copy of which shall be attached to the writ, or to obtain the delivery of the property by filing an undertaking as prescribed by Section 1861.22.

SEC. 66. Section 1861.19 of the Civil Code is amended to read:

1861.19. (a) After the levying officer takes possession pursuant to

the writ of possession, the levying officer shall keep the property in a secure place. Except as otherwise provided in Section 1861.6:

(1) If notice of the filing of an undertaking for redelivery or notice of objection to the undertaking is not received by the levying officer within 10 days after levy of the writ of possession, the levying officer shall deliver the property to plaintiff, upon receiving the fees for taking, and necessary expenses for keeping, the property.

(2) If notice of the filing of an undertaking for redelivery is received by the levying officer within 10 days after levy of the writ of possession, and no objection is made to the defendant's undertaking, the levying officer shall redeliver the property to defendant upon expiration of the time to object, upon receiving the fees for taking and necessary expenses for keeping the property not already paid or advanced by the plaintiff.

(3) If notice of objection to the plaintiff's undertaking or notice of the filing of an undertaking for redelivery is received within 10 days after levy of the writ of possession, and objection is made to the defendant's undertaking, the levying officer shall not deliver or redeliver the property until the time provided in Section 1861.23.

(b) Notwithstanding subdivision (a), when not otherwise provided by contract, and where an undertaking for redelivery has not been filed, upon a showing that the property is perishable, or will greatly deteriorate or depreciate in value, or for some other reason that the interest of the parties will be best served thereby, the court may order that the property be sold and the proceeds deposited in the court to abide the judgment in the action.

SEC. 67. Section 1861.21 of the Civil Code is amended to read:

1861.21. The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court an undertaking. The undertaking shall provide that the sureties are bound to the defendant in the amount of the undertaking for the return of the property to the defendant, if the return thereof be ordered, and for the payment to the defendant of any sum recovered against plaintiff. The undertaking shall be in an amount not less than twice the value of the property.

SEC. 68. Section 1861.22 of the Civil Code is amended to read:

1861.22. (a) The defendant may prevent the plaintiff from taking possession of property, pursuant to a writ of possession, or regain possession of property so taken, by filing with the court in which the action was brought an undertaking in an amount equal to the amount of the plaintiff's undertaking required by Section 1861.21. The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property, not exceeding the amount of the undertaking.

(b) The defendant's undertaking may be filed at any time before or after the levy of the writ of possession. The defendant shall mail a copy of the undertaking to the levying officer.

(c) If an undertaking for redelivery is filed, and no objection is made to the undertaking, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver the property to the defendant. If an undertaking for redelivery is filed and an objection to the undertaking is made, the provisions of Section 1861.23 apply.

SEC. 69. Section 1861.23 of the Civil Code is amended to read:

1861.23. (a) The defendant may object to the plaintiff's undertaking not later than 10 days after levy of the writ of possession. The defendant shall mail notice of objection to the levying officer.

(b) The plaintiff may object to the defendant's undertaking not later than 10 days after the defendant's undertaking is filed. The plaintiff shall mail notice of objection to the levying officer .

(c) If the court determines that the plaintiff's undertaking is not sufficient and a sufficient undertaking is not given within the time provided by statute, the court shall vacate the temporary restraining order or preliminary injunction, if any, and the writ of possession and, if levy has occurred, order the levying officer or the plaintiff to return the property to the defendant. If the court determines that the plaintiff's undertaking is sufficient, the court shall order the levying officer to deliver the property to the plaintiff.

(d) If the court determines that the defendant's undertaking is not sufficient and a sufficient undertaking is not given within the time required by statute, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, the plaintiff shall retain possession. If the court determines the defendant's undertaking is sufficient, the court shall order the levying officer or the plaintiff to deliver the property to the defendant.

SEC. 70. Section 1861a of the Civil Code is amended to read:

1861a. (a) Keepers of furnished and unfurnished apartment houses, apartments, cottages, or bungalow courts have a lien upon the baggage and other property of value belonging to their tenants or guests, and upon all the right, title and interest of their tenants or guests in and to all property in the possession of the tenants or guests which may be in the apartment house, apartment, cottage, or bungalow court, for the proper charges due from the tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing the lien.

(b) The lien may be enforced only after final judgment in an action brought to recover the charges or moneys. During the pendency of the proceeding, the plaintiff may take possession of the baggage and property upon an order issued by the court, where it appears to the satisfaction of the court from an affidavit filed by or on behalf of the plaintiff that the baggage or property is about to be destroyed, substantially devalued, or removed from the premises. Ten days written notice of the hearing on the motion for the order

shall be served on the defendant and shall inform the defendant that the defendant may file affidavits and present testimony and that if the defendant fails to appear the plaintiff will apply to the court for the order. The plaintiff shall file an undertaking in such sum as may be fixed by the court.

(c) Upon the order, the plaintiff has the right to enter peaceably the unfurnished apartment house, apartment, cottage, or bungalow court used by the guest or tenant without liability to the guest or tenant, including any possible claim of liability for conversion, trespass, or forcible entry. The plaintiff has the same duties and liabilities as a depository for hire as to property which the plaintiff takes into possession. An entry shall be considered peaceable when accomplished with a key or passkey or through an unlocked door during the hours between sunrise and sunset.

(d) Unless the judgment is paid within 30 days from the date when it becomes final, the plaintiff may sell the baggage and property, at public auction to the highest bidder. The plaintiff shall give notice of sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of sale, pursuant to Section 6064 of the Government Code in the county in which the apartment house, apartment, cottage, or bungalow court is situated. The plaintiff shall mail, at least 15 days prior to the date of sale, a copy of the notice addressed to the tenant or guest at the residence or other known address of the tenant or guest, and if not known, addressed to the tenant or guest at the place where the apartment house, apartment, cottage, or bungalow court is situated.

(e) After satisfying the lien out of the proceeds of sale, together with any reasonable costs that may have been incurred in enforcing the lien, the residue of the proceeds of sale, if any, shall, upon demand made within six months after sale, be paid to the tenant or guest. If not demanded within six months from the date of sale, the residue, if any, shall be paid into the treasury of the county in which the sale took place. If the residue is not claimed by the owner or the owner's legal representative within one year after the date of sale, the residue shall be paid into the general fund of the county.

(f) The sale shall be a perpetual bar to any action against the keeper for the recovery of the baggage or property, or of the value thereof, or for any damages, growing out of the failure of the tenant or guest to receive the baggage or property.

(g) When the baggage and property are not in the possession of the keeper as provided in this section, the lien shall be enforced only by writ of execution.

(h) This section does not apply to:

(1) Any musical instrument of any kind or description which is used by the owner thereof to earn all or a part of the owner's living.

(2) Any prosthetic or orthopedic appliance, or any medicine, drug, or medical equipment or health apparatus, personally used by a tenant or guest, or a member of the tenant's or guest's family who

is residing with the tenant or guest.

(3) Table and kitchen furniture, including one refrigerator, washing machine, sewing machine, stove; bedroom furniture, one overstuffed chair, one davenport, one dining table and chairs, and also all tools, instruments, clothing and books used by the tenant or guest in gaining a livelihood; beds, bedding and bedsteads, oil paintings and drawings drawn or painted by any member of the family of the tenant or guest, and any family portraits and their necessary frames.

(4) All other household, table or kitchen furniture not expressly mentioned in paragraph (c), including but not limited to radios, television sets, phonographs, records, motor vehicles that may be stored on the premises except so much of any such articles as may be reasonably sufficient to satisfy the lien provided for by this section; and provided further, that the lien shall be secondary to the claim of any prior bona fide holder of a chattel mortgage on and the rights of a conditional seller of such articles, other than the tenant or guest. Any property which is exempt from attachment or execution under the provisions of the Code of Civil Procedure shall not be subject to the lien provided for in this section.

SEC. 71. Section 2780 of the Civil Code is repealed.

SEC. 72. Section 2781 of the Civil Code is repealed.

SEC. 73. Section 2845 of the Civil Code is amended to read:

2845. A surety may require the creditor, subject to Section 996.440 of the Code of Civil Procedure, to proceed against the principal, or to pursue any other remedy in the creditor's power which the surety cannot pursue, and which would lighten the surety's burden; and if the creditor neglects to do so, the surety is exonerated to the extent to which the surety is thereby prejudiced.

SEC. 74. Section 2851 of the Civil Code is repealed.

SEC. 75. Section 2852 of the Civil Code is repealed.

SEC. 76. Section 3061.5 of the Civil Code is amended to read:

3061.5. (a) Except as provided in subdivision (d), any person who as an employee shall, by his or her own labor, do or perform any work harvesting or transporting harvested crops or farm products as defined in Section 55403 of the Food and Agricultural Code which are owned and grown or produced by a limited partnership as defined in Section 15501 of the Corporations Code, has a lien upon any and all of the severed crops or severed farm products or proceeds from their sale for the value of the labor done up to a maximum of earnings for two weeks. The liens attach whether the work was done at the instance of the owner who is the grower or producer of severed crops or severed farm products or of any other person acting by or under the owner's authority, directly or indirectly, as contractor or otherwise; and every contractor, subcontractor, or other person having charge of the harvesting or transporting of the severed crops or severed farm products shall be held to be the agent of the owner for the purposes of this section.

(b) The liens provided for in this section attach from the date of

the commencement of the work or labor, and are preferred liens, prior in dignity to all other liens, claims, or encumbrances. Except as provided in subdivisions (a) and (c) they shall not be limited as to amount by any contract price agreed upon between the owner who is the grower or producer of the severed crops or severed farm products and any contractor, but the several liens shall not in any case exceed in amount the reasonable value of the labor done, nor the price agreed upon for the labor between the claimant and his or her employer. In no event, where the claimant was employed by a contractor, or subcontractor, shall the lien extend to any labor not contemplated by, covered by, or reasonably necessary to the execution of, the original contract between the contractor and the owner who is the grower or producer of severed crops or severed farm products and of which contract, or modification thereof, the claimant had actual notice before the performance of the labor.

(c) The maximum liability of severed crops, severed farm products or the proceeds from their sale subject to liens under this section is limited to the lesser of actual proved claims or 25 percent of the fair market value of the severed crops, severed farm products, or 25 percent of the proceeds after their sale.

(d) No person has a lien if the owner who is the grower or producer of the severed crops, severed farm products, or their proceeds, who otherwise would be subject to a lien pursuant to subdivision (a), either gives directly, or requires a person or entity hired or used to furnish labor in connection with harvesting or transporting the severed crops, to give to the Labor Commissioner prior to the harvest and for 45 days after its completion, a bond executed by an admitted surety insurer in an amount and form acceptable to the Labor Commissioner, which is conditioned upon the payment of all wages found to be due and unpaid in connection with such operations under any provision of this code.

(e) A buyer in the ordinary course of business, as defined in subdivision (9) of Section 1201 of the Commercial Code, shall take free of any security interest created by this section, notwithstanding the fact that the lien is perfected and the buyer knows of its existence.

SEC. 77. Section 3080.10 of the Civil Code is amended to read:

3080.10. After hearing, the court may enter an order directing the lienholder to release all or a portion of the livestock to the owner, or to the owner's agent. The order shall be conditioned upon the filing by the owner of an undertaking as set forth in Section 3080.11, and shall include all of the following:

(1) The amount of the undertaking required.

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

(3) A statement that the lienholder has the right to object to the undertaking pursuant to Section 995.910 of the Code of Civil Procedure.

(4) A description of the livestock to be substituted.

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

SEC. 78. Section 3080.11 of the Civil Code is amended to read:

3080.11. The undertaking to be substituted for livestock shall be by the owner to pay to the lienholder an amount equal to the sum of (1) the fair market value of the livestock sought to be recovered, and (2) the costs to be incurred by the lienholder in order to assemble and turn over the livestock.

SEC. 79. Section 3080.12 of the Civil Code is repealed.

SEC. 80. Section 3080.13 of the Civil Code is repealed.

SEC. 81. Section 3080.14 of the Civil Code is repealed.

SEC. 82. Section 3227 of the Civil Code is repealed.

SEC. 83. Section 3228 of the Civil Code is repealed.

SEC. 84. Section 3248 of the Civil Code is amended to read:

3248. To be approved the payment bond shall satisfy all of the following requirements:

(a) Be in a sum not less than that prescribed in the following paragraph which is applicable to the total amount payable:

(1) One-half of the total amount payable by the terms of the contract when the total amount payable does not equal or exceed five million dollars ($5,000,000).

(2) One-fourth of the total amount payable by the terms of the contract when the total amount payable is not less than five million dollars ($5,000,000) and does not exceed ten million dollars ($10,000,000).

(3) If the total amount payable by the terms of the contract exceeds ten million dollars ($10,000,000), a payment bond in the sum of two million five hundred thousand dollars ($2,500,000) is sufficient.

(b) Provide that if the original contractor or a subcontractor fails to pay any of the persons named in Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor that the sureties will pay for the same, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court. The original contractor may require of the subcontractors a bond to indemnify the original contractor for any loss sustained by the original contractor because of any default by the subcontractors under this section.

(c) By its terms inure to the benefit of any of the persons named in Section 3181 so as to give a right of action to such persons or their assigns in any suit brought upon the bond.

(d) Be in the form of a bond and not a deposit in lieu of a bond.

SEC. 85. Section 3415 of the Civil Code is amended to read:

3415. (a) An action may be maintained by any person interested

in any private document or instrument in writing, which has been lost or destoyed, to prove or establish the document or instrument or to compel the issuance, execution and acknowledgment of a duplicate of the document or instrument.

(b) If the document or instrument is a negotiable instrument, the court shall compel the owner of the negotiable instrument to give an indemnity bond to the person reissuing, reexecuting or reacknowledging the same, against loss, damage, expense, or other liability which may be suffered by the person by reason of the issuance of the duplicate instrument or by the original instrument still remaining outstanding.

SEC. 86. A chapter heading is added immediately preceding Section 3439 of the Civil Code, to read:

CHAPTER 1. UNIFORM FRAUDULENT CONVEYANCE ACT

SEC. 87. Section 3439 of the Civil Code is amended to read:

3439. This chapter may be cited as the Uniform Fraudulent Conveyance Act.

SEC. 88. A chapter heading is added immediately preceding Section 3440 of the Civil Code, to read:

CHAPTER 2. CONVEYANCE OF PERSONAL PROPERTY WITHOUT DELIVERY

SEC. 89. Section 3440 of the Civil Code is amended to read:

3440. Every transfer of personal property and every lien on personal property made by a person having at the time the possession or control of the property, and not accompanied by an immediate delivery followed by an actual and continued change of possession of the things transferred, is conclusively presumed fraudulent and void as against the transferor's creditors while the transferor remains in possession and the successors in interest of those creditors, and as against any person on whom the transferor's estate devolves in trust for the benefit of others than the transferor and as against purchasers or encumbrancers in good faith subsequent to the transfer.

SEC. 90. Section 3441 is added to the Civil Code, to read:

3441. This chapter shall not apply to any of the following:

(a) Things in action.

(b) Ships or cargoes at sea or in a foreign port.

(c) Security interests and the sale of accounts, contract rights, or chattel paper governed by the Uniform Commercial Code, and contracts of bottomry or respondentia.

(d) Wines or brandies in the wineries, distilleries, or wine cellars of the makers or owners of the wines or brandies, or other persons having possession, care, and control of the wines or brandies, and the pipes, casks, and tanks in which the wines or brandies are contained, if the transfers are made in writing and executed and acknowledged,

and if the transfers are recorded in the book of official records in the office of the county recorder of the county in which the wines, brandies, pipes, casks, and tanks are situated.

(e) The transfer or assignment made for the benefit of creditors generally or by any assignee acting under an assignment for the benefit of creditors generally, or to any security agreement made for the benefit of creditors generally.

(f) Property exempt from enforcement of a money judgment.

(g) Standing timber if the contract or instrument in relation to the standing timber is recorded as provided in Section 1220.

(h) A transfer of personal property if all of the following conditions are satisfied:

(1) The personal property is leased back to the transferor immediately following the transfer.

(2) The transferor (lessee) or the transferee (lessor) records at least 10 days before the date of the transfer and leaseback in the office of the county recorder in the county or counties in which the personal property is situated, a notice of the intended transfer and leaseback which states the name and address of the transferor (lessee) and transferee (lessor). The notice shall contain a general statement of the character of the personal property intended to be transferred and leased back, and show the date when and place where the transaction is to be consummated.

(3) The transferor (lessee) or the transferee (lessor) publishes a copy of the notice pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the judicial district in which the personal property is situated, if there is one, and if there is none in the judicial district, then in a newspaper of general circulation in the county embracing the judicial district. The publication shall be completed not less than five days before the date of the intended transfer and leaseback.

SEC. 91. Section 3442 is added to the Civil Code, to read:

3442. This chapter shall not affect the rights of a secured party who acquires from the transferee or the transferee's successor a security interest in the personal property transferred if all of the following conditions are satisfied:

(a) The intended debtor or secured party records at least 10 days before the consummation of the security agreement in the office of the county recorder in the county or counties in which the personal property is situated, a notice of the transfer and intended security agreement which states the names and addresses of the transferor and transferee and of the intended debtor and secured party. The notice shall contain a general statement of the character of the personal property transferred and intended to be subject to the security interest, and show the date when and place where the security agreement is to be consummated.

(b) The intended debtor or secured party publishes a copy of the notice pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the judicial district in

which the personal property is situated, if there is one, and if there is none in the judicial district, then in a newspaper of general circulation in the county embracing the judicial district. The publication shall be completed not less than five days before the date of the intended security agreement.

SEC. 92. Section 3443 is added to the Civil Code, to read:

3443. Subdivision (2) of Section 2402 of the Commercial Code is not restricted by the provisions of this chapter.

SEC. 93. Chapter 3 (commencing with Section 3445) is added to Title 2 of Part 2 of Division 4 of the Civil Code, to read:

CHAPTER 3. UNDERTAKING IN FRAUDULENT CONVEYANCE ACTION

3445. As used in this chapter:

(a) "Conveyance" means "conveyance" as defined in Section 3439.01.

(b) "Creditor" means "creditor" as defined in Section 3439.01.

(c) "Transferee" means the person to whom property was conveyed or an obligation was incurred, or the successors or assigns of the person.

3446. (a) In an action by a creditor to set aside a conveyance or annul an obligation on the ground that the conveyance or obligation is fraudulent as to the creditor, the transferee may give an undertaking as provided in this chapter.

(b) If an undertaking is given as provided in this chapter, the transferee may sell, encumber, transfer, convey, mortgage, pledge, or otherwise dispose of the property or obligation, or a part thereof, and the purchaser, encumbrancer, transferee, mortgagee, grantee, or pledgee of the property or obligation takes, owns, holds, and possesses the property or obligation unaffected by the action and any judgment that is rendered in the action.

3447. The undertaking shall be conditioned that, if it is determined in the action that the conveyance or obligation was fraudulent as to the creditor, the transferee will pay to the creditor the lesser of the following amounts:

(a) The value of the property or obligation as estimated in the undertaking.

(b) The amount determined in the action to be due and owing to the creditor by the person who conveyed the property or incurred the obligation.

3448. The undertaking shall be in the lesser of the following amounts:

(a) Double the value of the property or obligation.

(b) Double the amount of the creditor's claim in the action.

3449. The undertaking becomes effective 10 days after service of the undertaking on the creditor.

SEC. 94. Section 166 of the Code of Civil Procedure is amended to read:

166. (a) The judge or judges of the superior, municipal and justice courts may, at chambers, in the matters within the jurisdiction of their respective courts, do all of the following:

(1) Grant all orders and writs which are usually granted in the first instance upon an ex parte application, and hear and dispose of such orders and writs.

(2) Appoint appraisers, receive inventories and accounts to be filed, suspend the powers of executors, administrators, guardians, or conservators in the cases allowed by law, grant special letters of administration and letters of temporary guardianship or conservatorship, approve claims, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

(3) Hear and determine all motions made pursuant to Section 657 or 663.

(4) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

(5) Approve bonds and undertakings.

(b) A judge, may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or which a judge may exercise or perform at chambers.

SEC. 95. Section 259 of the Code of Civil Procedure is amended to read:

259. Subject to the supervision of the court every court commissioner shall have power to do all of the following:

(1) Hear and determine ex parte motions, for orders and alternative writs and writs of habeas corpus in the superior court for which the court commissioner is appointed.

(2) Take proof and make and report findings thereon as to any matter of fact upon which information is required by the court. Any party to any contested proceeding may except to the report and the subsequent order of the court made thereon within five days after written notice of the court's action, a copy of the exceptions to be filed and served upon opposing party or counsel within the five days. The party may argue any exceptions before the court on giving notice of motion for that purpose within 10 days from entry thereof. After a hearing before the court on the exceptions, the court may sustain, or set aside, or modify its order.

(3) Take and approve any bonds and undertakings in actions or proceedings, and determine objections to the bonds and undertakings.

(4) Administer oaths and affirmations, and take affidavits and depositions in any action or proceeding in any of the courts of this state, or in any matter or proceeding whatever, and take

acknowledgments and proof of deeds, mortgages, and other instruments requiring proof or acknowledgment for any purpose under the laws of this or any other state or country.

(5) Act as temporary judge when otherwise qualified so to act and when appointed for that purpose. While acting as temporary judge the commissioner shall receive no compensation therefor other than compensation as commissioner.

(6) Hear and report findings and conclusions to the court for approval, rejection, or change, all preliminary matters including motions or petitions for the custody and support of children, the allowance of temporary alimony, costs and attorneys' fees, and issues of fact in contempt proceedings in divorce, maintenance, and annulment of marriage cases.

(7) Hear, report on, and determine all uncontested actions and proceedings other than actions for divorce, maintenance, or annulment of marriage.

(8) Charge and collect the same fees for the performance of official acts as are allowed by law to notaries public in this state for like services. This paragraph does not apply to any services of the commissioner, the compensation for which is expressly fixed by law. The fees so collected shall be paid to the treasurer of the county, for deposit in the general fund of the county.

(9) Provide an official seal, upon which must be engraved the words "Court Commissioner" and the name of the county, or city and county, in which the commissioner resides.

(10) Authenticate with the official seal the commissioner's official acts.

SEC. 96. Chapter 2 (commencing with Section 304) of Title 5 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 97. Section 340 of the Code of Civil Procedure is amended to read:

340. Within one year:

(1) An action upon a statute for a penalty or forfeiture, when the action is given to an individual, or to an individual and the state, except when the statute imposing it prescribes a different limitation.

(2) An action upon a statute for a forfeiture or penalty to the people of this state.

(3) An action for libel, slander, assault, battery, false imprisonment, seduction of a person below the age of legal consent, or for injury to or for the death of one caused by the wrongful act or neglect of another, or by a depositor against a bank for the payment of a forged or raised check, or a check that bears a forged or unauthorized endorsement, or against any person who boards or feeds an animal or fowl or who engages in the practice of veterinary medicine as defined in Section 4826 of the Business and Professions Code, for such person's neglect resulting in injury or death to an animal or fowl in the course of boarding or feeding such animal or fowl or in the course of the practice of veterinary medicine on such animal or fowl.

(4) An action against an officer to recover damages for the seizure of any property for a statutory forfeiture to the state, or for the detention of, or injury to property so seized, or for damages done to any person in making any such seizure.

(5) An action by a good faith improver for relief under Chapter 10 (commencing with Section 871.1) of Title 10 of Part 2 of the Code of Civil Procedure. The time begins to run from the date upon which the good faith improver discovers that the good faith improver is not the owner of the land upon which the improvements have been made.

SEC. 98. Section 391 of the Code of Civil Procedure is amended to read:

391. As used in this title, the following terms have the following meanings:

(a) "Litigation" means any civil action or proceeding, commenced, maintained or pending in any court of this state.

(b) "Vexatious litigant" means any person:

(1) Who, in the immediately preceding seven-year period has commenced, prosecuted or maintained in propria persona at least five litigations other than in a small claims court that have been (i) finally determined adversely to the person; or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing; or

(2) Who, after a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined.

(c) "Security" means an undertaking to assure payment, to the party for whose benefit the undertaking is required to be furnished, of the party's reasonable expenses, including attorney's fees and not limited to taxable costs, incurred in or in connection with a litigation instituted, caused to be instituted, or maintained or caused to be maintained by a vexatious litigant.

(d) "Plaintiff" means the person who commences, institutes or maintains a litigation or causes it to be commenced, instituted or maintained.

(e) "Defendant" means a person (including corporation, association, partnership and firm) against whom a litigation is brought or maintained or sought to be brought or maintained.

SEC. 99. Section 391.3 of the Code of Civil Procedure is amended to read:

391.3. If, after hearing the evidence upon the motion, the court determines that the plaintiff is a vexatious litigant and that there is no reasonable probability that the plaintiff will prevail in the litigation against the moving defendant, the court shall order the

plaintiff to furnish, for the benefit of the moving defendant, security in such amount and within such time as the court shall fix.

SEC. 100. Section 391.5 of the Code of Civil Procedure is repealed.

SEC. 101. Section 431.60 of the Code of Civil Procedure is repealed.

SEC. 102. Section 489.010 of the Code of Civil Procedure is repealed.

SEC. 103. Section 489.020 of the Code of Civil Procedure is repealed.

SEC. 104. Section 489.030 of the Code of Civil Procedure is repealed.

SEC. 105. Section 489.040 of the Code of Civil Procedure is repealed.

SEC. 106. Section 489.050 of the Code of Civil Procedure is repealed.

SEC. 107. Section 489.060 of the Code of Civil Procedure is amended to read:

489.060. (a) Except as provided in subdivision (b), all undertakings given pursuant to this title shall be presented to a proper court for approval and upon approval shall be filed with the court in which the action is pending.

(b) If the surety on the undertaking is an admitted surety insurer, the undertaking is not required to be approved by the court.

SEC. 108. Section 489.070 of the Code of Civil Procedure is repealed.

SEC. 109. Section 489.080 of the Code of Civil Procedure is repealed.

SEC. 110. Section 489.090 of the Code of Civil Procedure is repealed.

SEC. 111. Section 489.100 of the Code of Civil Procedure is repealed.

SEC. 112. Section 489.110 of the Code of Civil Procedure is repealed.

SEC. 113. Section 489.120 of the Code of Civil Procedure is repealed.

SEC. 114. Section 489.230 of the Code of Civil Procedure is amended to read:

489.230. (a) The notice of attachment shall include a statement, in a form adopted by the Judicial Council, advising the defendant that the undertaking has been filed and informing the defendant of the right to object to the undertaking.

(b) The form for the temporary protective order shall include a statement comparable to the one required by subdivision (a).

SEC. 115. Section 489.420 of the Code of Civil Procedure is amended to read:

489.420. If a defendant appeals and the enforcement of the judgment against the defendant is stayed by the filing of a sufficient undertaking on appeal as provided by this code, all property of the

defendant which has been attached in the action shall be released from the attachment upon the failure of the respondent to object to the undertaking within the time prescribed by statute or, if an objection is made, upon a determination that the undertaking is sufficient.

SEC. 116. Section 490.030 of the Code of Civil Procedure is repealed.

SEC. 117. Section 493.040 of the Code of Civil Procedure is amended to read:

493.040. (a) Where a lien of attachment terminates pursuant to Section 493.030, the assignee under a general assignment for the benefit of creditors or, in the case of a bankruptcy, the trustee, interim trustee, or the debtor in possession if there is no trustee or interim trustee, may secure the release of the attachment by filing with the levying officer a request for release of attachment stating the grounds for release and describing the property to be released, executed under oath, together with a copy thereof.

(b) In the case of an assignee, the request shall include two copies of the general assignment for the benefit of creditors.

(c) In the case of a trustee, interim trustee, or debtor in possession, the request shall include a certified copy of the petition in bankruptcy, together with a copy thereof.

(d) If immediate release of the attachment is sought, the request shall be accompanied by an undertaking to pay the plaintiff any damages resulting from an improper release of the attachment, in the amount of the plaintiff's claim to be secured by the attachment, executed by an admitted surety insurer.

(e) Within five days after the filing of the request for release of attachment, the levying officer shall mail to the plaintiff:

(1) A copy of the request for release of the attachment, including the copy of the document filed pursuant to subdivision (b) or (c).

(2) If an undertaking has not been given, a notice that the attachment will be released pursuant to the request for release of attachment unless otherwise ordered by a court within 10 days after the date of mailing the notice.

(3) If an undertaking has been given, a notice that the attachment has been released.

(f) Unless otherwise ordered by a court, if an undertaking has not been given, the levying officer shall release the attachment pursuant to the request for release of attachment after the expiration of 10 days from the date of mailing the papers referred to in subdivision (e) to the plaintiff. If an undertaking has been given, the levying officer shall immediately release the attachment pursuant to the request for release of attachment.

(g) Where the attached property has been taken into custody, it shall be released to the person making the request for release of attachment or some other person designated in the request. Where the attached property has not been taken into custody, it shall be released as provided in subdivision (c) of Section 488.560.

(h) The levying officer is not liable for releasing an attachment in accordance with this section nor is any other person liable for acting in conformity with the release.

SEC. 118. Section 512.080 of the Code of Civil Procedure is amended to read:

512.080. The writ of possession shall meet all of the following requirements:

(a) Be directed to the levying officer within whose jurisdiction the property is located.

(b) Describe the specific property to be seized.

(c) Specify any private place that may be entered to take possession of the property or some part of it.

(d) Direct the levying officer to levy on the property pursuant to Section 514.010 if found and to retain it in custody until released or sold pursuant to Section 514.030.

(e) Inform the defendant of the right to object to the plaintiff's undertaking, a copy of which shall be attached to the writ, or to obtain redelivery of the property by filing an undertaking as prescribed by Section 515.020.

SEC. 119. Section 514.030 of the Code of Civil Procedure is amended to read:

514.030. (a) After the levying officer takes possession pursuant to a writ of possession, the levying officer shall keep the property in a secure place. Except as otherwise provided by Sections 512.020 and 514.050:

(1) If notice of the filing of an undertaking for redelivery or notice of objection to the plaintiff's undertaking is not received by the levying officer within 10 days after levy of the writ of possession, the levying officer shall deliver the property to plaintiff, upon receiving the fees for taking and necessary expenses for keeping the property.

(2) If notice of the filing of an undertaking for redelivery is received by the levying officer within 10 days after levy of the writ of possession and defendant's undertaking is not objected to, the levying officer shall redeliver the property to defendant upon expiration of the time to so object, upon receiving the fees for taking and necessary expenses for keeping the property not already paid or advanced by the plaintiff.

(3) If notice of objection to the plaintiff's undertaking or notice of the filing of an undertaking for redelivery is received within 10 days after levy of the writ of possession and defendant's undertaking is objected to, the levying officer shall not deliver or redeliver the property until the time provided in Section 515.030.

(b) Notwithstanding subdivision (a), where not otherwise provided by contract and where an undertaking for redelivery has not been filed, upon a showing that the property is perishable or will greatly deteriorate or depreciate in value or for some other reason that the interests of the parties will be best served thereby, the court may order that the property be sold and the proceeds deposited in the court to abide the judgment in the action.

SEC. 120. Section 515.010 of the Code of Civil Procedure is amended to read:

515.010. The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court an undertaking. The undertaking shall provide that the sureties are bound to the defendant in the amount of the undertaking for the return of the property to the defendant, if return of the property is ordered, and for the payment to the defendant of any sum recovered against plaintiff. The undertaking shall be in an amount not less than twice the value of defendant's interest in the property. The value of the defendant's interest in the property is determined by the market value of the property less the amount due and owing on any conditional sales contract or security agreement and all liens and encumbrances on the property, and such other factors as may be necessary to determine the defendant's interest in the property.

SEC. 121. Section 515.020 of the Code of Civil Procedure is amended to read:

515.020. (a) The defendant may prevent the plaintiff from taking possession of property pursuant to a writ of possession or regain possession of property so taken by filing with the court in which the action was brought an undertaking in an amount equal to the amount of the plaintiff's undertaking required by Section 515.010. The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property, not exceeding the amount of the undertaking. The damages recoverable by the plaintiff pursuant to this section shall include all damages proximately caused by the plaintiff's failure to gain or retain possession.

(b) The defendant's undertaking may be filed at any time before or after levy of the writ of possession. A copy of the undertaking shall be mailed to the levying officer.

(c) If an undertaking for redelivery is filed and defendant's undertaking is not objected to, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver such property to the defendant. If an undertaking for redelivery is filed and defendant's undertaking is objected to, the provisions of Section 515.030 apply.

SEC. 122. Section 515.030 of the Code of Civil Procedure is amended to read:

515.030. (a) The defendant may object to the plaintiff's undertaking not later than 10 days after levy of the writ of possession. The defendant shall mail notice of objection to the levying officer.

(b) The plaintiff may except to the defendant's sureties not later than 10 days after the defendant's undertaking is filed. The plaintiff shall mail notice of objection to the levying officer.

(c) If the court determines that the plaintiff's undertaking is insufficient and a sufficient undertaking is not filed within the time

required by statute, the court shall vacate the temporary restraining order or preliminary injunction, if any, and the writ of possession and, if levy has occurred, order the levying officer or the plaintiff to return the property to the defendant. If the court determines that the plaintiff's undertaking is sufficient, the court shall order the levying officer to deliver the property to the plaintiff.

(d) If the court determines that the defendant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, the plaintiff shall retain possession. If the court determines that the defendant's undertaking is sufficient, the court shall order the levying officer or the plaintiff to deliver the property to the defendant.

SEC. 123. Section 529 of the Code of Civil Procedure is amended to read:

529. (a) On granting an injunction, the court or judge must require an undertaking on the part of the applicant to the effect that the applicant will pay to the party enjoined such damages, not exceeding an amount to be specified, as the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction. Within five days after the service of the injunction, the person enjoined may object to the undertaking. If the court determines that the applicant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the order granting the injunction must be dissolved.

(b) This section does not apply to any of the following persons:

(1) Either spouse against the other in a proceeding for legal separation or dissolution of marriage.

(2) The plaintiff in proceedings pursuant to Chapter 4 (commencing with Section 540).

(3) The plaintiff in proceedings pursuant to Section 7020 of the Civil Code.

(4) A public entity or officer described in Section 995.220.

SEC. 124. Section 529.1 of the Code of Civil Procedure is amended to read:

529.1. (a) In all actions in which the court has granted an injunction sought by any plaintiff to enjoin a construction project which has received all legally required licenses and permits, the defendant may apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in the construction of the project. The motion shall be made on the grounds that there is no reasonable possibility that the plaintiff will obtain a judgment against the moving defendant and that the plaintiff will not suffer undue economic hardship by filing the undertaking.

(b) If the court, after hearing, determines that the grounds for the

motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars ($500,000).

(c) As used in this section, a construction project includes, but is not restricted to, the construction, surveying, design, specifications, alteration, repair, improvement, maintenance, removal, or demolition of any building, highway, road, parking facility, bridge, railroad, airport, pier or dock, excavation or other structure, development or other improvement to real or personal property.

(d) The Office of Planning and Research shall review the operation of this section and report to the Governor and the Legislature by January 1, 1985.

SEC. 124.5. Section 529.2 of the Code of Civil Procedure is amended to read:

529.2. (a) In all civil actions, including, but not limited to, actions brought pursuant to Section 21167 of the Public Resources Code, brought by any plaintiff to challenge a housing project which is a development project, as defined by Section 65928 of the Government Code, and which meets or exceeds the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, a defendant may, if the bringing of the action or the seeking by the plaintiff of particular relief including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project. The motion shall be made on the grounds that: (1) the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project, and (2) the plaintiff will not suffer undue economic hardship by filing the undertaking.

(b) If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars ($500,000).

(c) If at any time after the plaintiff has filed an undertaking the housing development plan is changed by the developer in bad faith so that it fails to meet or exceed the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, the developer shall be liable to the plaintiff for the cost of obtaining the undertaking.

SEC. 125. Section 532 of the Code of Civil Procedure is amended to read:

532. (a) If an injunction is granted without notice to the person enjoined, the person may apply, upon reasonable notice to the judge who granted the injunction, or to the court in which the action was brought, to dissolve or modify the injunction. The application may be made upon the complaint or the affidavit on which the injunction was granted, or upon affidavit on the part of the person enjoined, with or without the answer. If the application is made upon affidavits on the part of the person enjoined, but not otherwise, the person against whom the application is made may oppose the application by affidavits or other evidence in addition to that on which the injunction was granted.

(b) In all actions in which an injunction or restraining order has been or may be granted or applied for, to prevent the diversion, pending the litigation, of water used, or to be used, for irrigation or domestic purposes only, if it is made to appear to the court that great damage will be suffered by the person enjoined, in case the injunction is continued, and that the person in whose behalf it issued can be fully compensated for any damages suffered by reason of the continuance of the acts enjoined during the pendency of the litigation, the court in its discretion, may dissolve or modify the injunction. The dissolution or modification shall be subject to the person enjoined giving a bond in such amount as may be fixed by the court or judge, conditioned that the enjoined person will pay all damages which the person in whose behalf the injunction issued may suffer by reason of the continuance, during the litigation, of the acts complained of. Upon the trial the amount of the damages must be ascertained, and in case judgment is rendered for the person in whose behalf the injunction was granted, the amount fixed as damages must be included in the judgment, together with reasonable attorney's fees. In any proceedings to enforce the liability on the bond, the amount of the damages as fixed in the judgment is conclusive.

SEC. 126. Section 535 of the Code of Civil Procedure is repealed.

SEC. 127. Section 566 of the Code of Civil Procedure is amended to read:

566. (a) No party, or attorney of a party, or person interested in an action, or related to any judge of the court by consanguinity or affinity within the third degree, can be appointed receiver therein without the written consent of the parties, filed with the clerk.

(b) If a receiver is appointed upon an ex parte application, the court, before making the order, must require from the applicant an undertaking in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant all damages the defendant may sustain by reason of the appointment of the receiver and the entry by the receiver upon the duties, in case the applicant shall have procured the appointment wrongfully, maliciously, or without sufficient cause.

SEC. 128. Section 567 of the Code of Civil Procedure is amended to read:

567. Before entering upon the duties of a receiver:

(a) The receiver must be sworn to perform the duties faithfully.

(b) The receiver shall give an undertaking to the State of California, in such sum as the court or judge may direct, to the effect that the receiver will faithfully discharge the duties of receiver in the action and obey the orders of the court therein. The receiver shall be allowed the cost of the undertaking.

SEC. 129. Section 571 of the Code of Civil Procedure is amended to read:

571. If a referee or commissioner is appointed by a court and the duties of the referee or commissioner will, or are reasonably anticipated to, involve the custody of personal property or the receipt or disbursement of moneys, the order of appointment shall provide that before entering upon the duties, the referee or commissioner shall execute an undertaking to the State of California, to the effect that the referee or commissioner will faithfully discharge the duties of referee or commissioner, as the case may be, and obey the orders of the court therein. The order of appointment shall specify the amount of the undertaking, but a failure to so specify shall not invalidate the order.

SEC. 130. Section 581 of the Code of Civil Procedure is amended to read:

581. An action may be dismissed in the following cases:

1. By plaintiff, by written request to the clerk, filed with the papers in the case, or by oral or written request to the judge where there is no clerk, at any time before the actual commencement of trial, upon payment of the costs of the clerk or judge; provided, that affirmative relief has not been sought by the cross-complaint of the defendant, and provided further that there is no motion pending for an order transferring the action to another court under the provisions of Section 396b. A trial shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or his counsel, and if there shall be no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

2. By either party, upon the written consent of the other. No dismissal mentioned in subdivisions 1 and 2 of this section shall be granted unless upon the written consent of the attorney of record of the party or parties applying therefor, or if such consent is not obtained upon order of the court after notice to such attorney.

3. By the court, when either party fails to appear on the trial and the other party appears and asks for the dismissal, or when a demurrer is sustained without leave to amend, or when, after a demurrer to the complaint has been sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court, and either party moves for such dismissal.

4. By the court, with prejudice to the cause, when upon the trial and before the final submission of the case, the plaintiff abandons it.

5. The provisions of subdivision 1, of this section shall not prohibit

a party from dismissing with prejudice, either by written request to the clerk or oral or written request to the judge, as the case may be, any cause of action at any time before decision rendered by the court. Provided, however, that no such dismissal with prejudice shall have the effect of dismissing a cross-complaint filed in said action. Dismissals without prejudice may be had in either of the manners provided for in subdivision 1 of this section, after actual commencement of the trial, either by consent of all of the parties to the trial or by order of court on showing of just cause therefor.

6. By the court without prejudice when no party appears for trial following 30 days notice of time and place for trial.

SEC. 131. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) An abstract of the judgment or decree of any court of this state, including a judgment entered pursuant to Chapter 1 (commencing with Section 1710.10) of Title 11 of Part 3, or a judgment of any court sitting as a small claims court, or any court of record of the United States, the enforcement of which has not been stayed on appeal or pursuant to Section 1710.50, certified by the clerk, judge or justice of the court where such judgment or decree was rendered, may be recorded with the recorder of any county. From the recording the judgment or decree becomes a lien upon all the real property of the judgment debtor, not exempt from execution, in the county, owned by the judgment debtor at the time, or which the judgment debtor may afterward and before the lien expires, acquire. The lien continues for 10 years from the date of the entry of the judgment or decree unless the enforcement of the judgment or decree is stayed by an undertaking on appeal or pursuant to Section 1710.50, or by the statutes of the United States, in which case the lien of the judgment or decree, and any lien or liability created by virtue of an attachment that has been issued and levied in the action, unless otherwise by statutes of the United States provided, ceases, or upon an undertaking on release of attachment, or unless the judgment or decree is previously satisfied, or the lien otherwise discharged.

(b) The abstract shall contain the following:

(1) Title of the court and cause and number of the action.

(2) Date of entry of the judgment or decree.

(3) Names of the judgment debtor and of the judgment creditor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.

(4) Amount of the judgment or decree, and where entered in judgment book or minutes.

(5) Social security number or driver's license number or both of the judgment debtor if they are known to the judgment creditor. If such numbers are not known to the judgment creditor, that fact shall be indicated on the abstract.

(c) An order made pursuant to subdivision (b) of Section 908 of

the Welfare and Institutions Code shall be considered a judgment for the purposes of this section.

(d) With respect to real property containing a dwelling house judicially determined to be exempt from levy of execution pursuant to the provisions of Section 690.31, as distinguished from property subject to a declared homestead created pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code, a judgment lien created pursuant to this section shall attach to the real property notwithstanding the exemption provided by Section 690.31.

SEC. 132. Section 676 of the Code of Civil Procedure is repealed.

SEC. 133. Section 677 of the Code of Civil Procedure is repealed.

SEC. 134. Section 677½ of the Code of Civil Procedure is repealed.

SEC. 135. Section 678 of the Code of Civil Procedure is repealed.

SEC. 136. Section 678½ of the Code of Civil Procedure is repealed.

SEC. 137. Section 679 of the Code of Civil Procedure is repealed.

SEC. 138. Section 679½ of the Code of Civil Procedure is repealed.

SEC. 139. Section 680 of the Code of Civil Procedure is repealed.

SEC. 140. Section 680½ of the Code of Civil Procedure is repealed.

SEC. 141. Section 681a of the Code of Civil Procedure is amended to read:

681a. The court, or the judge thereof, may stay the execution of any judgment or order. No court has power, without the consent of the adverse party, to stay the execution of any judgment or order, the execution of which would be stayed on appeal only by the giving of an undertaking, for a longer period than 30 days. If a motion for a new trial or for judgment notwithstanding the verdict is pending, execution may be stayed until 10 days after the determination of the motion.

SEC. 142. Section 682a of the Code of Civil Procedure is amended to read:

682a. (a) If the debt, credit, or other personal property sought to be levied upon is any of the following, this section shall also be complied with or the levy is not effectual for any purpose and shall be disregarded:

(1) A bank account, or interest therein, not standing in the name of the judgment debtor or judgment debtors or standing in the name of the judgment debtor or judgment debtors and one or more other persons who are not judgment debtors.

(2) A savings and loan association share, investment certificate, or account, or interest therein, not standing in the name of the judgment debtor or judgment debtors or standing in the name of the judgment debtor or judgment debtors and in one or more other persons who are not judgment debtors.

(3) Property in a safe-deposit vault or box maintained by a bank,

trust company, savings and loan association, or other corporation authorized and empowered to conduct a safe-deposit business and rented by it to a person or persons other than the judgment debtor or judgment debtors or rented by it to one or more judgment debtors and to one or more other persons who are not judgment debtors.

(b) The plaintiff shall provide and concurrently with the levy the sheriff, constable, or marshal or registered process server shall deliver to the bank, trust company, savings and loan association, or safe-deposit corporation a bond in an amount not less than twice the amount of the judgment or twice the amount sought to be reached by the levy, if less than the amount of the judgment, indemnifying the person or persons, other than the judgment debtor or judgment debtors whose interest is sought to be levied upon, rightfully entitled to the debt, credit, or other personal property (which person or persons need not be named specifically in the bond but may be referred to generally in the same manner as in this sentence), against actual damage by reason of the taking of the debt, credit, or other personal property and assuring to the person or persons the return thereof upon proof of the right thereto. Upon delivery of the bond the bank, trust company, savings and loan association, or safe-deposit corporation shall immediately notify the person in whose name the account stands, other than the judgment debtor, or the person to whom the safe-deposit box is rented, other than the judgment debtor, by registered mail addressed to the last address of the person known to the bank, trust company, savings and loan association or safe-deposit corporation of the fact of the service of the writ and of the delivery of the bond.

(c) From the time of the levy and the delivery of the bond the bank, trust company, savings and loan association or safe-deposit corporation shall not honor a check or other order for the payment of money drawn against the account or other credit levied upon, the savings and loan association shall not permit withdrawals in respect of the share, investment certificate, or account so levied upon, and the bank, trust company, savings and loan association or safe-deposit corporation shall not permit the removal of any of the contents of the safe-deposit vault or box levied upon for a period of 15 days from the mailing of the notice or until the levy is sooner released. After 15 days from the making of the levy and the delivery of the bond, if no objection to the bond is made, or if an objection is made, when the court makes an order determining that the board is sufficient, the bank, trust company, savings and loan association or safe-deposit corporation shall comply with the levy, unless it has been sooner released, and shall not be liable to any person by reason of any of the following:

(1) Compliance with the levy.

(2) Nonpayment of any check or other order for the payment of money drawn against the account or other credit so levied upon and presented while the levy is in force.

(3) Refusal, while the levy is in force, to pay any withdrawal in

respect of the share, investment certificate or account levied upon.

(4) Removal, pursuant to the levy, of any of the contents of the safe-deposit vault or box.

(5) Refusal of the bank, trust company, savings and loan association, or safe-deposit corporation to permit access to the safe-deposit vault or box by the renter thereof.

(d) The bond provided by this section may be objected to by any person claiming to be the rightful owner of the debt, credit, or other personal property levied upon. The bank, trust company, savings and loan association, or safe-deposit corporation to whom the bond is delivered shall deliver it as directed by the beneficiaries.

(e) Before giving access to any safe-deposit vault or box the bank, trust company, savings and loan association, or safe-deposit corporation may demand payment to it of all costs and expenses of opening the safe-deposit vault or box and all costs and expenses of repairing any damage to the safe-deposit vault or box caused by the opening thereof.

SEC. 143. Section 689 of the Code of Civil Procedure is amended to read:

689. (a) If tangible or intangible personal property levied on, whether or not in the actual possession of the levying officer, is claimed by a third person as the third person's property by a written claim verified by oath, setting out the reasonable value of the property, the third person's title and right to the possession of the property and the claim is delivered, together with a copy thereof, to the officer making the levy, the officer must release the property and the levy unless the plaintiff, or the person in whose favor the writ runs, within five days after written demand by the officer, made by registered or certified mail within five days after being served with such verified claim, gives the officer an undertaking in a sum equal to double the value of the property levied upon.

(b) The undertaking shall be made in favor of and shall indemnify the third person against loss, liability, damages, costs and counsel fees, by reason of the levy or the seizing, taking, collecting, withholding, or sale of the property by the officer. If the property levied upon is required by law to be registered or recorded in the name of the owner and it appears that at the time of the levy the defendant or judgment debtor was the registered or record owner of the property and the plaintiff, or the person in whose favor the writ runs, caused the levy to be made and maintained in good faith, and in reliance upon the registered or record ownership, there is no liability thereunder to the third person by the plaintiff, or the person in whose favor the writ runs, or the sureties, or the levying officer.

(c) The officer making the levy may demand and exact the undertaking provided in this section notwithstanding any defect, informality or insufficiency of the verified claim delivered to him. The officer is not liable for damages to any third person for the levy upon, or the collection, taking, keeping or sale of the property if no claim is delivered as herein provided, nor, in any event, is the officer

liable for the levy upon, or the holding, release or the other disposition of the property in accordance with the provisions of this section.

(d) If the undertaking is given, the levy shall continue and the officer shall retain possession of the property for the purposes of the levy under the writ. Notice of any objection to the undertaking shall be given as provided by statute and in addition delivered to the levying officer. If a notice of objection is not received by the levying officer within the time required by statute for making an objection, or if the court determines upon an objection that the undertaking is insufficient and a sufficient undertaking is not given in its place, the levying officer shall release the property and the levy.

(e) Whenever a verified third party claim is delivered to the officer as provided in this section, upon levy of execution or attachment (whether any undertaking is given or not), the plaintiff, or the person in whose favor the writ runs, the third party claimant, or any one or more joint third party claimants, is entitled to a hearing in the court in which the action is pending or from which the writ issued for the purpose of determining title to the property in question. The hearing must be granted by the court upon petition therefor, which must be filed within 15 days after the delivery of the third party claim to the officer. The hearing must be held within 20 days from the filing of the petition, unless continued as provided in this section. Ten days' notice of hearing must be given to the officer, to the plaintiff or the person in whose favor the writ runs, and to the third party claimant, or their attorneys. The notice must specify that the hearing is for the purpose of determining title to the property in question. No notice need to be given to the party filing the petition. The court may continue the hearing beyond the 20-day period, but good cause must be shown for any such continuance. Whenever the petition for hearing is filed by the third party claimant, or by any one or more joint third party claimants, neither the petition nor proceedings pursuant thereto may be dismissed without consent of the plaintiff or the person in whose favor the writ runs. The court may order the sale of any perishable property held by the officer and direct the disposition of the proceeds of sale. The court may, by order, stay execution sale, or forbid a transfer or other disposition of the property involved, until the proceedings for the determination of title can be commenced and prosecuted to termination, and may require, as a condition of the order, such bond as the court may deem necessary. The orders may be modified or vacated by the judge granting the orders, or by the court in which the proceeding is pending, at any time prior to the termination of the proceedings, upon such terms as may be just. At the hearing held for the purpose of determining title, the third party claimant has the burden of the proof. The third party claim delivered to the officer shall be filed by the officer with the court and shall constitute the pleading of the third party claimant, subject to the power of the court to permit an amendment in the interest of justice, and it shall be deemed

controverted by the plaintiff or other person in whose favor the writ runs. Nothing contained in this section shall be construed to deprive anybody of the right to a jury trial in any case where, by the Constitution, the right is given, but a jury trial shall be waived in any such case in like manner as in the trial of an action. No findings shall be required in any proceedings under this section. At the conclusion of the hearing the court shall give judgment determining the title to the property in question, which shall be conclusive as to the right of the plaintiff, or other person in whose favor the writ runs, to have the property levied upon, taken, or held, by the officer and to subject the property to payment or other satisfaction of judgment. In the judgment the court may make all proper orders for the disposition of the property or the proceeds thereof. If the property or levy has been released by the officer for want of an undertaking, and final judgment is for the plaintiff or other person in whose favor the writ runs, the officer shall retake or levy upon the property on the writ if the writ is in the officer's hands, or if the writ has been returned, another writ may be issued on which the officer may take or otherwise levy upon the property. An appeal lies from any judgment determining title under this section. The appeal shall be taken in the manner provided for appeals from the court in which the proceeding is held.

(f) Notwithstanding subdivision (d), if an undertaking is given pursuant to Section 7106, the property and the levy shall be released.

SEC. 144. Section 689b of the Code of Civil Procedure is amended to read:

689b. (1) Where the property levied upon is a vehicle or a vessel required to be registered with the Department of Motor Vehicles, the officer shall forthwith determine from the department the name and address of the legal owner of the vehicle or vessel and shall notify any legal owner who is not also the registered owner of the vehicle or vessel of the levy by registered mail or certified mail or personal service.

(2) A seller or mortgagee may file with the officer levying on personal property a verified written claim, together with a copy thereof, containing a detailed statement of the sales contract or mortgage and the total amount of sums due or to accrue under the contract or mortgage, above setoffs, with interest to date of tender, and also stating therein an address within this state for the purpose of permitting service by mail of any notice in connection with the claim. The officer making the levy may demand and exact the payment or undertaking provided for in this section, notwithstanding any defect, informality or insufficiency of the verified claim delivered to the officer.

(3) Within five days after being served with the verified claim the officer levying on the property must make demand by registered mail or certified mail on the plaintiff or attorney for the amount of the claimed debt and interest due to date of tender or the delivery to the officer of an undertaking and statement as provided in this

section, which demand shall include the copy of the claim.

(4) Within five days after receipt by the plaintiff or attorney of the officer's demand the plaintiff shall deposit with the officer the amount of the debt and interest or deliver the undertaking and statement provided in this section, or the levying officer must release the property.

(5) Within five days after receipt of the deposit the officer must pay or tender the deposit to the seller or mortgagee. If the deposit is made by check the officer shall be allowed a reasonable time for the check to clear.

(6) If the tender is accepted, all right, title, and interest of the seller or mortgagee in the property levied upon passes to the party to the action making the payment.

(7) If the tender is refused, the amount shall be deposited with the county treasurer, payable to the order of the seller or mortgagee.

(8) Until the payment or deposit covering the claim is made, or the undertaking and statement provided in this section is delivered to the officer, the property cannot be sold under the levy; but when made (and also in case the seller or mortgagee fails to render a claim within 30 days after the personal service of a written demand therefor, which service must be attested by the certificate of the serving officer, filed before the sale with the papers of the action wherein the attachment or execution was issued), then the officer must retain the property, and, in the case of an execution sell it in the manner provided by law, free of all liens or claims of the seller or mortgagee. The written demand of the levying officer may be served by the levying officer, or for the levying officer by any sheriff, marshal, or constable whose office is closer to the place of service, and whose fees and mileage shall be paid out of the prepaid fees in the possession of the levying officer.

(9) When an attachment or execution creditor presents to the officer, within the time allowed from the officer's demand, a verified statement that the sales contract or mortgage is void or invalid for the reasons specified therein, and delivers to the officer an undertaking in double the amount of the indebtedness claimed by the seller or mortgage or double the value of the personal property, the officer shall retain the property and in case of an execution sell it in the manner provided by law, free of all liens or claims of the seller or mortgagee.

The undertaking shall be made to the seller or mortgagee and shall indemnify the seller or mortgagee for the taking of the property against loss, liability, damages, costs and counsel fees. Notice of any objection to the undertaking shall be given as provided by statute and in addition delivered to the levying officer. If a notice of objection is not received by the levying officer within the time required by statute for making an objection, or if the court determines upon an objection that the undertaking is unsufficient and a sufficient undertaking is not given in its place, the levying officer shall release the property and the levy.

If the undertaking is given, the officer is not liable for damages to any claimant for the taking, keeping, or sale of the property in accordance with the provisions of this code.

(10) Whenever a verified claim herein is delivered to the officer as herein provided, upon levy of execution or attachment (whether any undertaking provided in this section is given or not), the plaintiff, or the person in whose favor the writ runs, the claimant, or any one or more joint claimants, are entitled to a hearing in the court in which the action is pending or from which the writ issued for the purpose of determining the validity of the sales contract or chattel mortgage. The hearing may be held, and stay of execution or other order made in the same manner as on third party claims under Section 689. At the conclusion of the hearing the court shall give judgment determining the validity of the claim under the sales contract or chattel mortgage which shall be conclusive between the claimant and the plaintiff, or other person in whose favor the writ runs. The court in which the action is pending, or which issued the writ, shall have original jurisdiction in all proceedings under this section.

If the property has been released by the officer for want of an undertaking or payment, and final judgment is for the plaintiff or other person in whose favor the writ runs, the officer shall retake the property on the writ, if the writ is still in the levying officer's hands, or if the writ has been returned, another writ may be issued on which the officer may take the property.

(11) Notwithstanding the provisions of subdivision (9), if an undertaking is given pursuant to Section 7106, the property and the levy shall be released.

SEC. 145. Section 710c of the Code of Civil Procedure is amended to read:

710c. The undertaking provided in Section 710b shall describe the property claimed and shall be in double the estimated value of the property; provided, in no case need the undertaking be for a greater sum than double the amount for which the execution is levied. The undertaking shall be conditioned that if the property is finally adjudged to be the property of the judgment debtor, the claimant will pay of the judgment upon which execution has issued a sum equal to the value, as estimated in the undertaking, of the property. The undertaking becomes effective 10 days after it is served on the beneficiary.

SEC. 146. Section 711 of the Code of Civil Procedure is repealed.

SEC. 147. Section 711½ of the Code of Civil Procedure is repealed.

SEC. 148. Section 712 of the Code of Civil Procedure is repealed.

SEC. 149. Section 712½ of the Code of Civil Procedure is repealed.

SEC. 150. Section 713 of the Code of Civil Procedure is repealed.

SEC. 151. Section 713½ of the Code of Civil Procedure is repealed.

SEC. 152. Section 726 of the Code of Civil Procedure is amended to read:

726. (a) There can be but one form of action for the recovery of any debt, or the enforcement of any right secured by mortgage upon real property, which action must be in accordance with the provisions of this chapter. In the action the court may, by its judgment, direct the sale of the encumbered property (or so much thereof as may be necessary), and the application of the proceeds of the sale to the payment of the costs of court, and the expenses of the sale, and the amount due plaintiff, including, where the mortgage provides for the payment of attorney's fees, such sum for such fees as the court shall find reasonable, not exceeding the amount named in the mortgage.

(b) The court may, by its judgment, or at any time after judgment, appoint a commissioner to sell the encumbered property. It must require of the commissioner an undertaking in an amount fixed by the court, to the effect that the commissioner will faithfully perform the duties of the office according to law. Before entering upon the discharge of duties the commissioner must file the undertaking together with the oath that the commissioner will faithfully perform the duties of the office.

(c) The decree for the foreclosure of a mortgage or deed of trust secured by real property or any interest therein shall declare the amount of the indebtedness or right so secured and, unless judgment for any deficiency there may be between the sale price and the amount due with costs is waived by the judgment creditor or a deficiency judgment is prohibited by Section 580b, shall determine the personal liability of any defendant for the payment of the debt secured by the mortgage or deed of trust and shall name the defendants against whom a deficiency judgment may be ordered following the proceedings prescribed in this section. In the event of waiver, or if the prohibition of Section 580b is applicable the decree shall so declare and there shall be no judgment for a deficiency. In the event that a deficiency is not waived or prohibited and it is decreed that any defendant is personally liable for the debt, then upon application of the plaintiff filed at any time within three months of the date of the foreclosure sale and after a hearing thereon at which the court shall take evidence and at which hearing either party may present evidence as to the fair value of the property or the interest therein sold as of the date of sale, the court shall render a money judgment against the defendant or defendants for the amount by which the amount of the indebtedness with interest and costs of sale and of action exceeds the fair value of the property or interest therein sold as of the date of sale. In no event shall the amount of the judgment, exclusive of interest from the date of sale and of costs, exceed the difference between the amount for which the property was sold and the entire amount of the indebtedness secured by the mortgage or deed of trust. Notice of the hearing must be served upon all defendants who have appeared in the action and

against whom a deficiency judgment is sought, or upon their attorneys of record, at least 15 days before the date set for hearing. Upon application of any party made at least 10 days before the date set for such hearing the court shall, and upon its own motion the court at any time may, appoint one of the inheritance tax referees provided for by law to appraise the property or the interest therein sold as of the time of sale. The inheritance tax referee shall file the appraisal with the clerk and the same shall be admissible in evidence. The inheritance tax referee shall take and subscribe an oath to be attached to the appraisal that the referee has truly, honestly and impartially appraised the property to the best of the referee's knowledge and ability. Any inheritance tax referee so appointed may be called and examined as a witness by any party or by the court itself. The court must fix the compensation, in an amount as determined by the court to be reasonable, but the fees shall not exceed similar fees for similar services in the community where the services are rendered, which may be taxed and allowed in like manner as other costs.

(d) No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the time of the commencement of the action need be made a party to the action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding the unrecorded conveyance or lien as if the person had been a party to the action.

(e) If the court appoints a commissioner for the sale of the property, the commissioner must sell it in the manner provided by law for the sale of like property by the sheriff upon execution; and the provisions of Chapter 1 (commencing with Section 681) of Title 9 of Part 2, are hereby made applicable to a sale made by the commissioner, and the powers therein given and the duties therein imposed on sheriffs are extended to the commissioner.

(f) In the event of the death, absence from the state, other disability or disqualification of the commissioner appointed to sell encumbered property under this section, the court may, upon the happening of either the death, absence from the state, other disability or disqualification of the commissioner, appoint an elisor to perform the duties of the commissioner which are then to be performed in the action. The elisor so appointed shall give the undertaking, and take the oath provided to be given and taken by a commissioner, before entering upon the discharge of the duties, and shall thereafter perform all duties left unperformed by the commissioner whom the elisor is appointed to succeed, with like effect as if the duties had been performed by the commissioner.

(g) If the land mortgaged consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, the court may, in its judgment, direct the whole thereof to be sold in one of the counties by the sheriff, commissioner or elisor, as the case may

be, and upon such proceedings, and with like effect, as if the whole of the property were situated in that county.

SEC. 153. Section 729 of the Code of Civil Procedure is amended to read:

729. Within 30 days after the sale, the commissioner must file with the clerk of the court in which the action is pending, a verified report and account of the sale, together with the proper affidavits, showing that the regular and required notice of the time and place of the sale was given, which report and account shall have the same force and effect as the sheriff's return in sales under execution. In all cases of sales made by a commissioner, the court in which the proceedings are pending shall fix a reasonable compensation for the commissioner's services, but in no case to be less than the sum of ten dollars ($10).

SEC. 154. Section 731c of the Code of Civil Procedure is amended to read:

731c. Injury to formations bearing oil or gas or to oil or gas wells caused by the subsurface migration of any substance as a result of secondary recovery operations for oil or gas conducted in accordance with good oilfield practices shall not be grounds for enjoining the secondary recovery operations if an undertaking is given for the payment of any compensable damages to which the owners of interests in the formations or wells may be entitled resulting from the injury. Any benefit to the injured property from the secondary recovery operation shall be considered in mitigation of damages for the injury.

SEC. 155. Section 917.1 of the Code of Civil Procedure is amended to read:

917.1. (a) The perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order is for money or directs the payment of money, whether consisting of a special fund or not, and whether payable by the appellant or another party to the action, unless an undertaking is given.

(b) The undertaking shall be on condition that if the judgment or order or any part of it is affirmed or the appeal is withdrawn or dismissed, the party ordered to pay shall pay the amount of the judgment or order, or the part of it as to which the judgment or order is affirmed, as entered after the receipt of the remittitur, together with any interest which may have accrued pending the appeal and entry of the remittitur, and costs which may be awarded against the appellant on appeal. This section shall not apply in cases where the money to be paid is in the actual or constructive custody of the court; and such cases shall be governed, instead, by the provisions of Section 917.2. The undertaking shall be for double the amount of the judgment or order unless given by an admitted surety insurer in which event it shall be for one and one-half times the amount of the judgment or order. The liability on the undertaking may be enforced if the party ordered to pay does not make the payment within 30 days after the filing of the remittitur from the reviewing court.

(c) If a surety on the undertaking pays the judgment, either with or without action, after the judgment is affirmed, the surety is substituted to the rights of the creditor and is entitled to control, enforce, and satisfy the judgment, in all respects as if the surety had recovered the judgment.

SEC. 156. Section 917.4 of the Code of Civil Procedure is amended to read:

917.4. The perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order appealed from directs the sale, conveyance or delivery of possession of real property which is in the possession or control of the appellant or the party ordered to sell, convey or deliver possession of the property, unless an undertaking in a sum fixed by the trial court is given that the appellant or party ordered to sell, convey or deliver possession of the property will not commit or suffer to be committed any waste thereon and that if the judgment or order appealed from is affirmed, or the appeal is withdrawn or dismissed, the appellant shall pay the damage suffered by the waste and the value of the use and occupancy of the property, or the part of it as to which the judgment or order is affirmed, from the time of the taking of the appeal until the delivery of the possession of the property. If the judgment or order directs the sale of mortgaged real property and the payment of any deficiency, the undertaking shall also provide for the payment of any deficiency.

SEC. 157. Section 917.5 of the Code of Civil Procedure is amended to read:

917.5. The perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order appealed from appoints a receiver, unless an undertaking in a sum fixed by the trial court is given on condition that if the judgment or order is affirmed or the appeal is withdrawn, or dismissed, the appellant will pay all damages which the respondent may sustain by reason of the stay in the enforcement of the judgment.

SEC. 158. Section 917.9 of the Code of Civil Procedure is amended to read:

917.9. (a) The perfecting of an appeal shall not stay enforcement of the judgment or order in cases not provided for in Sections 917.1 through 917.8 if the trial court, in its discretion, requires an undertaking and the undertaking is not given. The undertaking shall be in the sum fixed by the court; it shall be conditioned upon the performance of the judgment or order appealed from if the judgment or order is affirmed or the appeal is withdrawn or dismissed, and it shall provide that if the judgment or order appealed from or any part of it is affirmed, or the appeal is withdrawn or dismissed, the appellant will pay all damages which the respondent may sustain by reason of the stay in the enforcement of the judgment.

(b) For the purpose of this section, "damages" means reasonable compensation for the loss of use of the money or property.

SEC. 159. Section 920 of the Code of Civil Procedure is repealed.

SEC. 160. Section 921 of the Code of Civil Procedure is amended to read:

921. An appeal by a party who has levied an attachment shall not continue in force the attachment, unless an undertaking is executed and filed on the part of the appellant that the appellant will pay all costs and damages which the respondent may sustain by reason of the attachment, in case the order of the court below is sustained in favor of the respondent; and unless, within five days after written notice of the entry of the order appealed from, the appeal is perfected. The amount of the undertaking on appeal required by this section shall be such amount as is fixed by the trial court on motion of the respondent as provided in Section 489.410 and if no such order has been made, the undertaking shall be in double the amount of the debt claimed by the appellant. If the respondent is not satisfied with the undertaking in double the amount of the debt or the amount fixed by order under Section 489.410, the trial court upon motion of the respondent made within 60 days after perfecting the appeal may order an increase in the amount of the undertaking in such amount as is justified by the detriment reasonably to be anticipated by continuing the attachment. If such an order is made, the attachment shall be discharged and the property released therefrom, unless the undertaking is executed and filed within 10 days after the order is made.

SEC. 161. Section 922 of the Code of Civil Procedure is amended to read:

922. If an undertaking required or permitted by this title is objected to by the respondent and the court determines the undertaking is insufficient and a sufficient undertaking is not given within the time provided by statute, enforcement of the judgment or order appealed from is no longer stayed and property which has been levied upon under execution issued upon such judgment shall not be released from levy.

SEC. 162. Section 1029.5 of the Code of Civil Procedure is amended to read:

1029.5. (a) Whenever a complaint for damages is filed against any architect, landscape architect, engineer, building designer, or land surveyor, duly licensed as such under the laws of this state, in an action for error, omission, or professional negligence in the creation and preparation of plans, specifications, designs, reports or surveys which are the basis for work performed or agreed to be performed on real property, any such defendant may, within 30 days after service of summons, move the court for an order, upon notice and hearing, requiring the plaintiff to file an undertaking in a sum not to exceed five hundred dollars ($500) as security for the costs of defense as provided in subdivision (d), which may be awarded against the plaintiff. The motion shall be supported by affidavit showing that the claim against the defendant is frivolous.

At the hearing upon the motion, the court shall order the plaintiff

to file the undertaking if the defendant shows to the satisfaction of the court that (i) the plaintiff would not suffer undue economic hardship in filing the undertaking, and (ii) there is no reasonable possibility that the plaintiff has a cause of action against each named defendant with respect to whom the plaintiff would otherwise be required to file the undertaking. No appeal shall be taken from any order made pursuant to this subdivision to file or not to file the undertaking.

A determination by the court that the undertaking either shall or shall not be filed or shall be filed as to one or more defendants and not as to others, shall not be deemed a determination of any one or more issues in the action or of the merits thereof. If the court, upon any such motion, makes a determination that an undertaking be filed by the plaintiff as to any one or more defendants, the action shall be dismissed as to the defendant or defendants, unless the undertaking required by the court has been filed within such reasonable time as may be fixed by the court.

(b) This section does not apply to a complaint for bodily injury or for wrongful death, nor to an action commenced in a small claims court.

(c) Whenever more than one such defendant is named, the undertaking shall be increased to the extent of not to exceed five hundred dollars ($500) for each additional defendant in whose favor the undertaking is ordered not to exceed the total of three thousand dollars ($3,000).

(d) In any action requiring an undertaking as provided in this section, upon the dismissal of the action or the award of judgment to the defendant, the court shall require the plaintiff to pay the defendant's costs of defense authorized by law. Any sureties shall be liable for such costs in an amount not to exceed the sum of five hundred dollars ($500) or the amount of the undertaking, whichever is lesser, for each defendant with respect to whom the sureties have executed an undertaking.

SEC. 163. Section 1029.6 of the Code of Civil Procedure is amended to read:

1029.6. (a) Whenever a complaint for damages for personal injuries is filed against a physician and surgeon, dentist, registered nurse, dispensing optician, optometrist, pharmacist, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, or veterinarian, duly licensed as such under the laws of this state, or a licensed hospital as the employer of any such person, in an action for error, omission, or negligence in the performance of professional services, or performance of professional services without consent, any such defendant may, within six months after service of summons, move the court for an order, upon notice to plaintiff and all defendants having appeared in the action, and hearing, requiring the plaintiff to file an undertaking in a sum not to exceed five hundred dollars ($500) as security for the costs of defense as provided

in subdivision (d), which may be awarded against the plaintiff. The motion shall be supported by affidavit showing that the claim against the defendant is frivolous. Any defendant having appeared in the action and within 30 days after receipt of notice may join with the moving party requesting an order under this section as to such additional defendant. The failure of any defendant to join with the moving party shall preclude each such defendant from subsequently requesting an order under this section.

At the hearing upon the motion, the court shall order the plaintiff to file the undertaking if the defendant shows to the satisfaction of the court that: (i) the plaintiff would not suffer undue economic hardship in filing the undertaking and (ii) there is no reasonable possibility that the plaintiff has a cause of action against each named defendant with respect to whom the plaintiff would otherwise be required to file the undertaking.

A determination by the court that an undertaking either shall or shall not be filed or shall be filed as to one or more defendants and not as to others, shall not be deemed a determination of any one or more issues in the action or of the merits thereof. If the court, upon any such motion, makes a determination that an undertaking be filed by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the undertaking required by the court shall have been filed within such reasonable time as may be fixed by the court.

(b) This section does not apply to a complaint in an action commenced in a small claims court.

(c) Whenever more than one such defendant is named, the undertaking shall be increased to the extent of not to exceed five hundred dollars ($500) for each additional defendant in whose favor the undertaking is ordered, not to exceed the total of one thousand dollars ($1,000).

(d) In any action requiring an undertaking as provided in this section, upon the dismissal of the action or the award of judgment to the defendant, the court shall require the plaintiff to pay the defendant's court costs. Any sureties shall be liable for such costs in an amount not to exceed the sum of five hundred dollars ($500) or the amount of the undertaking, whichever is lesser, for each defendant with respect to whom the sureties have executed an undertaking. If the plaintiff prevails in the action against any defendant with respect to whom an undertaking has been filed, the defendant shall pay the costs to plaintiff incurred in defending the motion for dismissal authorized by this section.

(e) Any defendant filing a motion under this section or joining with a moving party under this section is precluded from subsequently filing a motion for summary judgment.

(f) Any defendant filing a motion for summary judgment is precluded from subsequently filing a motion, or joining with a moving party, under this section.

SEC. 164. Section 1030 of the Code of Civil Procedure is amended

to read:

1030. (a) When the plaintiff in an action or special proceeding resides out of the state, or is a foreign corporation, the defendant may at any time apply to the court by noticed motion for an order requiring the plaintiff to file an undertaking to secure an award of costs and attorney's fees which may be awarded in the action or special proceeding. For the purposes of this section, "attorney's fees" means reasonable attorney's fees a party may be authorized to recover by a statute apart from this section or by contract.

(b) The motion shall be made on the grounds that the plaintiff resides out of the state or is a foreign corporation and that there is a reasonable possibility that the moving defendant will obtain judgment in the action or special proceeding. The motion shall be accompanied by an affidavit in support of the grounds for the motion and by a memorandum of points and authorities. The affidavit shall set forth the nature and amount of the costs and attorney's fees the defendant has incurred and expects to incur by the conclusion of the action or special proceeding.

(c) If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and attorney's fees.

(d) The plaintiff shall file the undertaking not later than 30 days after service of the court's order requiring it or within a greater time allowed by the court. If the plaintiff fails to file the undertaking within the time allowed, the plaintiff's action or special proceeding shall be dismissed as to the defendant in whose favor the order requiring the undertaking was made.

(e) If the defendant's motion for an order requiring an undertaking is filed not later than 30 days after service of summons on the defendant, no pleading need be filed by the defendant and all further proceedings are stayed until 10 days after the motion is denied or, if granted, until 10 days after the required undertaking has been filed and the defendant has been served with a copy of the undertaking. If the defendant's motion for an order requiring an undertaking is filed later than 30 days after service of summons on the defendant, if the defendant objects to the undertaking, the court may in its discretion stay the proceedings not longer than 10 days after a sufficient undertaking has been filed and the defendant has been served with a copy of the undertaking.

(f) The determinations of the court under this section have no effect on the determination of any issues on the merits of the action or special proceeding and may not be given in evidence nor referred to in the trial of the action or proceeding.

(g) An order granting or denying a motion for an undertaking under this section is not appealable.

SEC. 165. Section 1035 of the Code of Civil Procedure is repealed.

SEC. 166. Section 1041 of the Code of Civil Procedure is repealed.

SEC. 167. Section 1042 of the Code of Civil Procedure is repealed.

SEC. 168. Section 1054 of the Code of Civil Procedure is amended to read:

1054. (a) When an act to be done, as provided in this code, relates to the pleadings in the action, or the preparation of bills of exceptions, or of amendments thereto, or to the service of notices other than of appeal and of intention to move for a new trial, the time allowed therefor, unless otherwise expressly provided, may be extended, upon good cause shown, by the judge of the court in which the action is pending, or by the judge who presided at the trial of the action; but the extension so allowed shall not exceed 30 days, without the consent of the adverse party.

(b) In all cases in which the court or judge is authorized by this section to grant an extension of time, the extension of time shall be granted when all attorneys of record of parties who have appeared in the action agree in writing to the extension of time, and any extension of time previously granted by stipulation of all attorneys of record of parties who have appeared in the action shall not be included in the computation of the 30-day limitation upon extensions of time allowed by the court or judge.

SEC. 169. Section 1054.1 of the Code of Civil Procedure is amended to read:

1054.1. (a) When an act to be done in any action or proceeding in any court of this state or before any state administrative agency, as provided by law or rule, relates to the pleadings in the action, or the preparation of bills of exceptions, or of amendments thereto, or to the service of notices (other than of appeal, of intention to move for a new trial, and of intention to move to vacate a judgment), and such act is not a motion for a judgment notwithstanding the verdict, the time allowed therefor, unless otherwise expressly provided, shall be extended to a date certain by the judges of the court or by the agency in which the action or proceeding is pending, or by the judge who presided at the trial of the action, when it appears to the judge of any court or to the agency to whom the application is made that an attorney of record for the party applying for the extension is a Member of the Legislature of this state, and that the Legislature is in session or in recess not exceeding a recess of 40 days or that a legislative committee of which the attorney is a duly appointed member is meeting or is to meet within a period which the court or agency finds does not exceed the time reasonably necessary to enable the member to reach the committee meeting by the ordinary mode of travel. When the Legislature is in session or in recess, extension shall be to a date not less than 30 days next following the final adjournment of the Legislature or the commencement of a recess of more than 40 days. If a date is available during recess, extension shall be to such earlier date. When a legislative committee is meeting or is to meet within a period which the court or agency finds does not exceed the time reasonably necessary to enable the member to reach the committee meeting by the ordinary mode of travel, extension shall be for such period as the court or agency finds

will be reasonably necessary to enable the member to perform the act to be done in the action or proceeding, unless the extension would expire when the Legislature is to be in session; and in that case the extension shall be to a date not less than 30 days following the final adjournment of the Legislature or the commencement of a recess of more than 40 days. If the act may be reasonably done by the member within the recess, continuance shall be to such earlier date. However, any postponement granted under the provisions of this section shall suspend for the same period of time as the postponement, the running of any period of time for any ruling or proceeding by a court, board, commission, or officer, or for the performance by any party of any act affected by the postponement.

(b) Extension of time pursuant to this section is mandatory unless the court determines that the extension would defeat or abridge a right to relief pendente lite in a paternity action or a right to invoke a provisional remedy such as pendente lite support in a domestic relations controversy, attachment and sale of perishable goods, receivership of a failing business, and temporary restraining order or preliminary injunction, and that the continuance should not be granted.

SEC. 170. Section 1054a of the Code of Civil Procedure is repealed.

SEC. 171. Section 1056 of the Code of Civil Procedure is repealed.

SEC. 172. Section 1057 of the Code of Civil Procedure is repealed.

SEC. 173. Section 1057a of the Code of Civil Procedure is repealed.

SEC. 174. Section 1057b of the Code of Civil Procedure is repealed.

SEC. 175. Section 1058 of the Code of Civil Procedure is repealed.

SEC. 176. Section 1058a of the Code of Civil Procedure is repealed.

SEC. 177. Section 1059 of the Code of Civil Procedure is repealed.

SEC. 178. Section 1166a of the Code of Civil Procedure is amended to read:

1166a. (a) Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession issued by the court and directed to the sheriff of the county, or constable or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons. Written notice of the hearing on the motion shall be served on the defendant by the plaintiff in accordance with the provisions of Section 1011, and shall inform the defendant that the defendant may file affidavits with the court and may appear and present testimony, and that, if the defendant fails to appear, the plaintiff will apply to the court for the writ of possession.

(b) The plaintiff shall file an undertaking in such sum as shall be fixed and determined by the judge, to the effect that, if the plaintiff fails to recover judgment against the defendant for the possession of the premises or if the suit is dismissed, the plaintiff will pay to the defendant such damages, not to exceed the amount fixed in the undertaking, as may be sustained by the defendant by reason of such dispossession under the writ of possession.

SEC. 179. Section 1210 of the Code of Civil Procedure is amended to read:

1210. Every person dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, who, not having right so to do, reenters into or upon or takes possession of the real property, or induces or procures any person not having right so to do, or aids or abets such a person therein, is guilty of a contempt of the court by which the judgment was rendered or from which the process issued. Upon a conviction for contempt the court must immediately issue an alias process, directed to the proper officer, and requiring the officer to restore possession to the party entitled under the original judgment or process, or to the party's lessee, grantee, or successor in interest. No appeal from the order directing the issuance of an alias writ of possession stays the execution of the writ, unless an undertaking is executed on the part of the appellant to the effect that the appellant will not commit or suffer to be committed any waste on the property, and if the order is affirmed, or the appeal dismissed, the appellant will pay the value of the use and occupation of the property from the time of the unlawful reentry until the delivery of the possession of the property, pursuant to the judgment or order, not exceeding a sum to be fixed by the judge of the court by which the order for the alias writ was made.

SEC. 179.5. Section 1213 of the Code of Civil Procedure is amended to read:

1213. Whenever a warrant of attachment is issued pursuant to this title the court or judge must direct, by an endorsement on the warrant, that the person charged may give an undertaking for the person's appearance in an amount to be specified in such endorsement.

SEC. 180. Section 1215 of the Code of Civil Procedure is amended to read:

1215. The person arrested must be discharged from the arrest upon executing and delivering to the officer, at any time before the return day of the warrant, an undertaking to the effect that the person arrested will appear on the return of the warrant and abide the order of the court or judge thereupon.

SEC. 181. Section 1220 of the Code of Civil Procedure is amended to read:

1220. When the warrant of arrest has been returned served, if the person arrested does not appear on the return day, the court or judge may issue another warrant of arrest or may order the undertaking to

be enforced, or both. If the undertaking is enforced, the measure of damages is the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the warrant was issued.

SEC. 182. Section 1255.240 of the Code of Civil Procedure is amended to read:

1255.240. (a) If the court determines that an applicant is entitled to withdraw any portion of a deposit that another party claims or to which another person may be entitled, the court may require the applicant, before withdrawing such portion, to file an undertaking. The undertaking shall secure payment to such party or person of any amount withdrawn that exceeds the amount to which the applicant is entitled as finally determined in the proceeding, together with interest as provided in Section 1255.280. If withdrawal is permitted notwithstanding the lack of personal service of the application for withdrawal upon any party to the proceeding, the court may also require that the undertaking indemnify the plaintiff against any liability it may incur under Section 1255.230. The undertaking shall be in such amount as is fixed by the court, but if executed by an admitted surety insurer the amount shall not exceed the portion claimed by the adverse claimant or appearing to belong to another person. If executed by two or more sufficient sureties, the amount shall not exceed double such portion.

(b) If the undertaking is required primarily because of an issue as to title between the applicant and another party or person, the applicant filing the undertaking is not entitled to recover the premium reasonably paid for the undertaking as a part of the recoverable costs in the eminent domain proceeding.

SEC. 183. Section 1255.250 of the Code of Civil Procedure is amended to read:

1255.250. (a) If the amount originally deposited is increased pursuant to Section 1255.030 and the total amount sought to be withdrawn exceeds the amount of the original deposit, the applicant, or each applicant if there are two or more, shall file an undertaking. The undertaking shall be in favor of the plaintiff and shall secure repayment of any amount withdrawn that exceeds the amount to which the applicant is entitled as finally determined in the eminent domain proceeding, together with interest as provided in Section 1255.280. If the undertaking is executed by an admitted surety insurer, the undertaking shall be in the amount by which the total amount to be withdrawn exceeds the amount originally deposited. If the undertaking is executed by two or more sufficient sureties, the undertaking shall be in double such amount, but the maximum amount that may be recovered from such sureties is the amount by which the total amount to be withdrawn exceeds the amount originally deposited.

(b) If there are two or more applicants, the applicants, in lieu of filing separate undertakings, may jointly file a single undertaking in the amount required by subdivision (a).

SEC. 184. Section 6103 of the Commercial Code is amended to

read:

6103. The following transfers are not subject to this division:

(1) A transfer subject to subdivision (h) of Section 3441 of the Civil Code;

(2) Assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(3) Transfers of property subject to a lien or other security interest in settlement or realization of such lien or other security interest;

(4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process;

(5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;

(6) Transfers of property which is exempt from enforcement of a money judgment;

(7) The transfer of goods in a warehouse where a warehouse receipt has been issued therefor by a warehouseman (Section 7102) and a copy of such receipt is kept at the principal place of business of the warehouseman and at the warehouse in which said goods are stored;

(8) A transfer which is subject to and complies with Article 5 (commencing with Section 24070) of Chapter 6 of Division 9 of the Business and Professions Code, except that such transfer shall be subject to subdivision (1) of Section 6105 insofar as it refers to Section 6107, Section 6107 other than paragraph (e) of subdivision (1) thereof, and subdivision (a) of Section 6111.

SEC. 185. Section 7601 of the Commercial Code is amended to read:

7601. (1) If a document has been lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with such order. If the document was negotiable the claimant must post an undertaking approved by the court to indemnify any person who may suffer loss as a result of nonsurrender of the document. If the document was not negotiable, an undertaking may be required at the discretion of the court. The court may also in its discretion order payment of the bailee's reasonable costs and counsel fees.

(2) A bailee who without court order delivers goods to a person claiming under a missing negotiable document is liable to any person injured thereby, and if the delivery is not in good faith becomes liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts an undertaking with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who files a notice of claim within one year after the delivery.

SEC. 186. Section 800 of the Corporations Code is amended to

read:

800. (a) As used in this section, "corporation" includes an unincorporated association; "board" includes the managing body of an unincorporated association; "shareholder" includes a member of an unincorporated association; and "shares" includes memberships in an unincorporated association.

(b) No action may be instituted or maintained in right of any domestic or foreign corporation by any holder of shares or of voting trust certificates of the corporation unless both of the following conditions exist:

(1) The plaintiff alleges in the complaint that plaintiff was a shareholder, of record or beneficially, or the holder of voting trust certificates at the time of the transaction or any part thereof of which plaintiff complains or that plaintiff's shares or voting trust certificates thereafter devolved upon plaintiff by operation of law from a holder who was a holder at the time of the transaction or any part thereof complained of; provided, that any shareholder who does not meet these requirements may nevertheless be allowed in the discretion of the court to maintain the action on a preliminary showing to and determination by the court, by motion and after a hearing, at which the court shall consider such evidence, by affidavit or testimony, as it deems material, that (i) there is a strong prima facie case in favor of the claim asserted on behalf of the corporation, (ii) no other similar action has been or is likely to be instituted, (iii) the plaintiff acquired the shares before there was disclosure to the public or to the plaintiff of the wrongdoing of which plaintiff complains, (iv) unless the action can be maintained the defendant may retain a gain derived from defendant's willful breach of a fiduciary duty, and (v) the requested relief will not result in unjust enrichment of the corporation or any shareholder of the corporation; and

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file.

(c) In any action referred to in subdivision (b), at any time within 30 days after service of summons upon the corporation or upon any defendant who is an officer or director of the corporation, or held such office at the time of the acts complained of, the corporation or the defendant may move the court for an order, upon notice and hearing, requiring the plaintiff to furnish a bond as hereinafter provided. The motion shall be based upon one or both of the following grounds:

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the corporation or its shareholders.

(2) That the moving party, if other than the corporation, did not

participate in the transaction complained of in any capacity.

The court on application of the corporation or any defendant may, for good cause shown, extend the 30-day period for an additional period or periods not exceeding 60 days.

(d) At the hearing upon any motion pursuant to subdivision (c), the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the corporation and the moving party which will be incurred in the defense of the action. If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the amount of the bond, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the corporation in connection with the action, including expenses for which the corporation may become liable pursuant to Section 317. A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof. If the court, upon the motion, makes a determination that a bond shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to the defendant or defendants, unless the bond required by the court has been furnished within such reasonable time as may be fixed by the court.

(e) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (c), or any order or determination pursuant to the motion, furnish a bond in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for a bond theretofore made, and any such motion then pending shall be dismissed and no further or additional bond shall be required.

(f) If a motion is filed pursuant to subdivision (c), no pleadings need be filed by the corporation or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

SEC. 187. Section 5710 of the Corporations Code is amended to read:

5710. (a) Subdivisions (c) through (f) notwithstanding, no motion to require a bond shall be granted in an action brought by 100 members or the authorized number (Section 5036), whichever is less.

(b) No action may be instituted or maintained in the right of any corporation by any member of such corporation unless both of the following conditions exist:

(1) The plaintiff alleges in the complaint that plaintiff was a member at the time of the transaction or any part thereof of which plaintiff complains; and

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file.

(c) Subject to subdivision (a), in any action referred to in subdivision (b), at any time within 30 days after service of summons upon the corporation or upon any defendant who is an officer or director of the corporation, or held such office at the time of the acts complained of, the corporation or such defendant may move the court for an order, upon notice and hearing, requiring the plaintiff to furnish a bond as hereinafter provided. The motion shall be based upon one or both of the following grounds:

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the corporation or its members, economically or otherwise.

(2) That the moving party, if other than the corporation, did not participate in the transaction complained of in any capacity.

The court on application of the corporation or any defendant may, for good cause shown, extend the 30-day period for an additional period or periods not exceeding 60 days.

(d) At the hearing upon any motion pursuant to subdivision (c), the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the corporation and the moving party which will be incurred in the defense of the action. If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the amount of the bond, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the corporation in connection with the action, including expenses for which the corporation may become liable pursuant to Section 5238. A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof. If the court, upon the motion, makes a determination that a bond shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the bond required by the court has been furnished within such reasonable time as may be fixed by the court.

(e) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (c), or any order or determination pursuant to the motion, furnish a bond or bonds in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of

the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for a bond theretofore made, and any such motion then pending shall be dismissed and no further or additional bond shall be required.

(f) If a motion is filed pursuant to subdivision (c), no pleadings need be filed by the corporation or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

SEC. 188. Section 6513 of the Corporations Code is amended to read:

6513. If, at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable grounds to believe that unless a receiver of the corporation is appointed the interests of the corporation or the public or charitable purpose of the corporation will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as the court may direct and upon the giving of security pursuant to Sections 566 and 567 of the Code of Civil Procedure, the court may appoint a receiver to take over and manage the affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution.

SEC. 189. Section 7710 of the Corporations Code is amended to read:

7710. (a) Subdivisions (c) through (f) notwithstanding, no motion to require a bond shall be granted in an action brought by 100 members or the authorized number (Section 5036), whichever is less.

(b) No action may be instituted or maintained in the right of any corporation by any member of such corporation unless both of the following conditions exist:

(1) The plaintiff alleges in the complaint that plaintiff was a member at the time of the transaction or any part thereof of which plaintiff complains, or that plaintiff's membership thereafter devolved upon plaintiff by operation of law from a holder who was a holder at the time of transaction or any part thereof complained of; and

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file.

(c) Subject to subdivision (a), in any action referred to in subdivision (b), at any time within 30 days after service of summons upon the corporation or upon any defendant who is an officer or director of the corporation, or held such office at the time of the acts complained of, the corporation or such defendant may move the

court for an order, upon notice and hearing, requiring the plaintiff to furnish a bond as hereinafter provided. The motion shall be based upon one or both of the following grounds:

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the corporation or its members economically or otherwise.

(2) That the moving party, if other than the corporation, did not participate in the transaction complained of in any capacity.

The court on application of the corporation or any defendant may, for good cause shown, extend the 30-day period for an additional period or periods not exceeding 60 days.

(d) At the hearing upon any motion pursuant to subdivision (c), the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the corporation and the moving party which will be incurred in the defense of the action. If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the amount of the bond, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the corporation in connection with the action, including expenses for which the corporation may become liable pursuant to Section 7237. A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof. If the court, upon any such motion, makes a determination that a bond shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the bond required by the court has been furnished within such reasonable time as may be fixed by the court.

(e) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (c), or any order or determination pursuant to such motion, furnish a bond or bonds in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for a bond theretofore made, and any such motion then pending shall be dismissed and no further or additional bond shall be required.

(f) If a motion is filed pursuant to subdivision (c), no pleadings need be filed by the corporation or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

SEC. 190. Section 8513 of the Corporations Code is amended to read:

8513. If, at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable

grounds to believe that unless a receiver of the corporation is appointed the interests of the corporation or its members will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as the court may direct and upon the giving of security pursuant to Sections 566 and 567 of the Code of Civil Procedure, the court may appoint a receiver to take over and manage the affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution.

SEC. 191. Section 15038 of the Corporations Code is amended to read:

15038. (a) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against the copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under Section 15036(2), the expelled partner shall receive in cash only the net amount due from the partnership.

(b) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(1) Each partner who has not caused dissolution wrongfully shall have:

(A) All the rights specified in subdivision (a).

(B) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(2) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property; provided, they secure the payment by bond or pay to any partner who has caused the dissolution wrongfully, the value of the partner's interest in the partnership at the dissolution, less any damages recoverable under subdivision (b) (1) (B), and in like manner indemnify the partner against all present or future partnership liabilities.

(3) A partner who has caused the dissolution wrongfully shall have:

(A) If the business is not continued under the provisions of subdivision (b) (2), all the rights of a partner under subdivision (a), subject to subdivision (b) (1) (B).

(B) If the business is continued under subdivision (b) (2) the right as against the copartners and all claiming through them in respect of their interests in the partnership, to have the value of the partner's interest in the partnership, less any damages caused to the

copartners by the dissolution, ascertained and paid to the partner in cash, or the payment secured by bond, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered.

SEC. 192. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force

from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one

purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when the commissioner finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for a reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from

listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion bring an action

in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of that section, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars

($100). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 193. Section 25216 of the Corporations Code is amended to read:

25216. (a) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance. The commissioner shall, for the purposes of this subdivision, by rule define such schemes, devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

(b) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in connection with which such broker-dealer or agent engages in any fraudulent, deceptive or manipulative act or practice or makes any fictitious quotation. The commissioner shall, for the purposes of this subdivision, by rule define and prescribe means reasonably designed to prevent such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious.

(c) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in contravention of such rules as the commissioner may

prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility of broker-dealers. Such rules may require a minimum capital for broker-dealers or prescribe a ratio between net capital and aggregate indebtedness or both and a fidelity bond.

(d) No broker-dealer or agent shall effect or attempt to effect in this state, in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, (1) any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege of buying or selling the security, or (2) any transaction in connection with any security with relation to which the broker-dealer or agent has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege, or (3) any transaction in any security for the account of any person who the broker-dealer or agent has reason to believe has, and who actually has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege with relation to such security.

(e) The commissioner may by rule require any issuer who employs agents in connection with any security or transaction not exempted by Chapter 1 (commencing with Section 25100) of Part 2 of this division to post a surety bond in an amount not exceeding ten thousand dollars ($10,000), conditioned that the issuer will comply with the provisions of this law and the rules and orders issued thereunder. The bond, unless previously canceled, shall cover for the entire period that the qualification is in effect. If a deposit in lieu of a bond is made pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure, the deposit may include an appropriate deposit of securities. No suit may be maintained to enforce any liability on the bond unless brought within two years after the contract of sale or other act upon which the suit is based.

SEC. 194. Section 25530 of the Corporations Code is amended to read:

25530. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets, or such other ancillary relief may be granted as appropriate.

A receiver or conservator appointed by the superior court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners,

trustees or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver or conservator, by reason of their exercising such powers or performing such duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief, including but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award such additional relief.

SEC. 195. Section 31113 of the Corporations Code is amended to read:

31113. If the commissioner finds that it is necessary and appropriate for the protection of prospective franchisees or subfranchisors because the applicant has failed to demonstrate that adequate financial arrangements have been made to fulfill the franchisor's obligations to provide real estate, improvements, equipment, inventory, training, or other items included in the offering, the commissioner may by rule or order require the escrow or impound of franchisee fees and other funds paid by the franchisee or subfranchisor until such obligations have been satisfied. At the option of the franchisor, the franchisor may furnish a surety bond as provided by rule of the commissioner.

SEC. 196. Section 31400 of the Corporations Code is amended to read:

31400. Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, the commissioner may in the commissioner's discretion bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people of the State of California, in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

SEC. 197. Section 39450 of the Education Code is amended to read:

39450. (a) After considering all proposals submitted, the governing board of the school district shall have the authority, subject to the provisions of Section 39451, to select the plan or proposal which best meets the needs of the school district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the school district's governing board; provided, however, that the governing board shall not approve any

proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the State Board of Education, and the State Board of Education has approved such proposal. The State Board of Education shall, within 45 days of the date of submission, notify the governing board of its approval or disapproval.

(b) The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file one of the following, as determined by the governing board:

(1) A bond for the performance of the lease or agreement.

(2) An irrevocable letter of credit issued by a state or national bank for the performance of the lease or agreement.

SEC. 198. Section 48269 of the Education Code is amended to read:

48269. If the parent, guardian, or other person having control or charge of the child, within three days after the rendition of the judgment executes a bond to the governing board of the school district in the sum of two hundred dollars ($200), conditioned that the child will, during the remainder of the current school year, regularly attend some public or private school in the city, or city and county, or school district, and not be insubordinate or disorderly during attendance, then the court may make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be filed with the secretary of the board of education, or clerk of the board of trustees. All money paid or collected on the bond shall be paid into the county treasury as provided in Section 41001.

SEC. 199. Section 48270 of the Education Code is repealed.

SEC. 200. Section 48271 of the Education Code is repealed.

SEC. 201. Section 81400 of the Education Code is amended to read:

81400. (a) After considering all proposals submitted, the governing board of the community college district shall have the authority, subject to the provisions of Section 81401, to select the plan or proposal which best meets the needs of the district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the district's governing board.

(b) The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file one of the following, as determined by the governing board:

(1) A bond for the performance of the lease or agreement.

(2) An irrevocable letter of credit issued by a state or national bank for the performance of the lease or agreement.

SEC. 202. Section 90225 of the Education Code is amended to read:

90225. No payment shall be made upon the contract to the contractor or any assignee of the contractor until an order by the

trustees that a sufficient surety be substituted on the bond or that a new, additional, or supplemental bond be given, is satisfied.

SEC. 203. Section 1824 of the Financial Code is amended to read:

1824. An appeal may be taken from the judgment of the court by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court.

SEC. 204. Section 1881 of the Financial Code is amended to read:

1881. (a) Whenever it appears to the superintendent that any person has violated, or that there is reasonable cause to believe that any person is about to violate, any provision of this chapter or of any regulation or order issued under this chapter, the superintendent may bring an action in the name of the people of this state in the superior court to enjoin such violation or to enforce compliance with this chapter or with any regulation or order issued under this chapter. Upon a proper showing, a restraining order, preliminary or permanent injunction, or writ of mandate shall be granted, and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(b) Any receiver or conservator appointed by the court pursuant to subdivision (a) may, with the approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the superintendent or such receiver or conservator by reason of the exercise of such powers or the performance of such duties pursuant to the order, or with the approval of, the court.

(c) The superintendent may include in any action authorized under subdivision (a) a claim for ancillary relief, including a claim for restitution or damages on behalf of the persons injured by the act constituting the subject matter of such action, and the court shall have jurisdiction to award such additional relief.

SEC. 205. Section 1893 of the Financial Code is amended to read:

1893. (a) If the superintendent finds that any of the factors set forth in Section 1889 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of travelers checks issued by the licensee or for the protection of the public interest that the superintendent take immediate possession of the property and business of the licensee, the superintendent may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the superintendent, resume business upon such conditions as the superintendent may prescribe.

(b) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of

Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the superintendent to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the superintendent from further proceedings and order the superintendent to surrender the property and business of the licensee to the licensee or make such further order as may be just. The judgment of the superior court may be appealed by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court.

(c) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the superintendent shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100) of Chapter 17, and the provisions of that article (except Sections 3100, 3101, and 3102) apply as if the licensee were a bank.

SEC. 206. Section 3102 of the Financial Code is amended to read:

3102. An appeal may be taken from the judgment of the court by the superintendent or by the bank in the manner provided by law for appeals from the judgment of a superior court.

SEC. 207. Section 5611 of the Financial Code is amended to read:

5611. The commissioner shall prescribe the amount and form of the bond required by Section 5610 and the term during which it shall run. The sufficiency of the sureties on such bond is at all times subject to the approval of the commissioner. Each officer and employee shall renew his bond upon the expiration of its term. All bonds shall be retained at the association's principal office.

SEC. 208. Section 9004 of the Financial Code is amended to read:

9004. An appeal from a judgment enjoining the commissioner from further proceedings and directing the commissioner to surrender the business, property, and assets to the association does not operate as a stay of the judgment, unless the trial court in its discretion so orders. If the judgment dismisses the action an appeal therefrom does not operate as a stay of the judgment but the court rendering the judgment may, in its discretion enjoin the commissioner pending the appeal, from further proceedings and direct the commissioner, pending the appeal, to surrender the business, property, and assets to the association, if an undertaking is given as required by Chapter 2 (commencing with Section 916) of Title 13 of Part 2 of the Code of Civil Procedure.

SEC. 209. Section 9517 of the Financial Code is amended to read:

9517. An appeal from an order of court referred to in this chapter is not effectual unless the appellant, within 30 days after the entry of the order appealed from, files with the clerk of the court a bond to the effect that the appellant, if the order is affirmed on appeal, will pay all of the respondents' costs and expenses arising from the appeal, not including respondents' attorneys fees. The amount of the bond shall be determined by the superior court.

SEC. 210. Section 12206 of the Financial Code is amended to

read:

12206. If the applicant is to engage in the business of check selling or receiving money for the purpose of paying bills, invoices or accounts of an obligor, the applicant shall file with the commissioner concurrently with its application for a license, a bond to be approved by the commissioner, in which the applicant is the principal, in the sum of ten thousand dollars ($10,000). A deposit given instead of the bond required by this section shall not be deemed an asset of the applicant or licensee for the purpose of complying with Section 12205.

SEC. 211. Section 12206.1 of the Financial Code is repealed.

SEC. 212. Section 12207 of the Financial Code is amended to read:

12207. The bond shall be approved by the commissioner. The bond shall run to the state for the use of the state and of any person who has a cause of action against the principal under the provisions of this division.

SEC. 213. Section 12210 of the Financial Code is repealed.

SEC. 214. Section 12211 of the Financial Code is repealed.

SEC. 215. Section 12223 of the Financial Code is amended to read:

12223. The commissioner may require a licensee, in addition to the bond provided in Section 12206, to obtain an adequate fidelity bond for each officer, employee, agent, or any person having access to funds collected by or for the licensee or having authority to draw against such funds if in the commissioner's opinion such a bond is necessary for the protection of the public. The bond shall be for the protection of the public against loss suffered through embezzlement by any person having access to funds collected by or for the licensee or having authority to draw against such funds, or from mysterious disappearance, theft, holdup or burglary. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with Section 12205.

SEC. 216. Section 12224 of the Financial Code is repealed.

SEC. 217. Section 17202 of the Financial Code is amended to read:

17202. At the time of filing an application for an escrow agent's license, the applicant shall deposit with the commissioner a bond satisfactory to the commissioner in the amount of ten thousand dollars ($10,000). The bond shall run to the state for the use of the state and of any person who has cause against the obligor of the bond under the provision of this division. A deposit given instead of the bond required by this section shall not be deemed an asset of the applicant or licensee for the purpose of complying with Section 17210.

SEC. 218. Section 17202.1 of the Financial Code is repealed.

SEC. 219. Section 17203 of the Financial Code is amended to read:

17203. The bond of an escrow agent shall be conditioned that the

licensee will faithfully conform to and abide by the provisions of this division and all the rules made by the commissioner under this division. The bond shall be conditioned that the licensee will honestly and faithfully apply all funds received, will faithfully and honestly perform all obligations and undertakings under this division, and will pay to the state and any person all amounts which become due or owing to the state or to such person under the provisions of this division, including the costs in any conservatorship, or liquidation, whether by the commissioner or by a receiver. In determining the liability of the principal and the sureties under the bond, escrow money held in trust and any money recovered to restore any deficiency in the trust shall not be considered as an asset of the liquidation subject to assessment for the cost of the liquidation. The surety under the bond may pay the full amount of its liability thereunder to the commissioner or a conservator appointed by the commissioner pursuant to Chapter 6 (commencing with Section 17621) in lieu of payment to the state or persons having a cause of action against the principal, and upon such payment the surety is completely released from further liability under the bond.

SEC. 220. Section 17203.1 of the Financial Code is amended to read:

17203.1. All officers, directors, trustees, and employees of an escrow agent, whether or not compensated, who have access to money or negotiable securities belonging to the escrow agent or in the possession of the escrow agent in the regular discharge of their duties, or persons who draw checks upon the escrow agent or upon the trust funds of the escrow agent in the regular discharge of their duties, before entering upon their duties and throughout the entire term of their office and employment and any subsequent term thereof, shall furnish to the escrow agent a bond indemnifying the escrow agent against loss of money or property. The commissioner shall prescribe the amount of the bond on each individual employee, officer, director, or trustee, and the aggregate amount and the terms during which the bond runs. The sufficiency of the sureties on the bond are at all times subject to the approval of the commissioner. The bonds shall be filed in the commissioner's office. A deposit given instead of the bond required by this section shall not be deemed an asset of the applicant or licensee for the purpose of complying with Section 17210.

SEC. 221. Section 17203.2 of the Financial Code is repealed.

SEC. 222. Section 17204 of the Financial Code is repealed.

SEC. 223. Section 17205 of the Financial Code is amended to read:

17205. No action may be brought on an escrow agent's bond by any person after the expiration of two years from the time when the act or default complained of occurs.

SEC. 224. Section 17213.5 of the Financial Code is amended to read:

17213.5. (a) Licensees of this division shall be entitled to

establish additional business office locations by compliance with all of the following:

(1) Filing with the commissioner notice of the intended address, or addresses.

(2) Payment of the fees prescribed in subdivisions (a) and (c) of Section 17207.

(3) Filing with the commissioner additional bond or bonds as prescribed in Sections 17202, 17203, 17203.1, and 17204 appropriately for each additional office location or, in lieu thereof, the applicant shall cause the surety under the existing bond or bonds to file with the commissioner a written amendment signifying that coverage is appropriately extended.

(4) Filing with the commissioner financial statements prepared in accordance with generally accepted accounting principles. Except as otherwise permitted in writing by the commissioner, the financial statements shall be covered by a report or certificate of an independent certified public accountant or independent public accountant, showing an additional tangible net worth in the amount set forth in Section 17210 for each additional office location, and should not be more than six months old.

(5) Filing with the commissioner the names and addresses of the licensee's owners and employees to be stationed at the new location, showing that the operation of the additional office, or offices, will be under the complete management and control of the parent licensee.

(6) Filing with the commissioner statements offsetting and meeting each of the conditions set forth in Section 17209.3.

(b) With respect to all applications for authorization to establish additional locations, the commissioner shall promptly dispatch the notice set forth in Section 17209.1 and shall immediately commence investigation and review of the application.

(c) The commissioner shall within 45 days from the receipt by the commissioner of a separate and complete application, license the designated premises as a branch of the parent licensee, unless the commissioner finds any of the following:

(1) The applicant has failed to comply with all of the requirements of this section.

(2) The applicant then fails to meet any of the standards applicable for the issuance of a license pursuant to Section 17209.3.

(3) A hearing shall be held to determine whether the application should be granted or denied.

SEC. 225. Section 17623 of the Financial Code is amended to read:

17623. An appeal from a judgment enjoining the commissioner from further proceedings and directing the commissioner to surrender the business, property, and assets to the licensee does not operate as a stay of the judgment, unless the trial court in its discretion so orders. If the judgment dismisses the action an appeal therefrom does not operate as a stay of the judgment but the court rendering the judgment may, in its discretion enjoin the

commissioner pending the appeal, from further proceedings and direct the commissioner, pending the appeal, to surrender the business, property, and assets to the licensee, if an undertaking is given as required by Chapter 2 (commencing with Section 916) of Title 13 of Part 2 of the Code of Civil Procedure.

SEC. 226. Section 18346 of the Financial Code is amended to read:

18346. The commissioner may require each industrial loan company to file with the commissioner a fidelity bond indemnifying the industrial loan company against loss of money or property by act of any officer, director or employee of such company, having access to assets owned by or pledged with the company. The fidelity bond shall contain a rider which provides that the coverage of the bond extends to all officers, directors and employees of the insured who are compensated by the insured. The commissioner may require that the fidelity bond contain a rider which provides that coverage of the bond extends to all officers and directors who are not compensated by the insured. The fidelity bond may be either a primary commercial blanket bond, a blanket position bond, or a banker's blanket bond, but shall be written by an admitted surety insurer. The commissioner shall by regulation prescribe the amount of fidelity coverage to be required. The sufficiency of the sureties on the bond are at all times subject to the approval of the commissioner.

SEC. 227. Section 18370 of the Financial Code is amended to read:

18370. An appeal may be taken from the judgment of the court by the commissioner or by the industrial loan company in the manner provided by law for appeals from the judgment of a superior court.

SEC. 228. Section 18495 of the Financial Code is amended to read:

18495. An appeal may be taken from the judgment of the court by the commissioner or by Guaranty Corporation in the manner provided by law for appeals from the judgment of a superior court. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders.

SEC. 229. Section 30606 of the Financial Code is amended to read:

30606. (a) If a securities depository fails to comply with a final order and has not secured a court order restraining the enforcement of the final order, the commissioner may revoke the license of the securities depository or may institute proceedings under subdivision (b) to enforce the final order.

(b) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order under this law, the commissioner may in the commissioner's discretion bring an action in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order under this law.

Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

SEC. 230. Section 34101 of the Financial Code is amended to read:

34101. (a) Whenever it appears to the superintendent that any person has violated, or that there is reasonable cause to believe that any person is about to violate, any provision of this division or of any regulation or order issued under this division, the superintendent may bring an action in the name of the people of this state in the superior court to enjoin the violation or to enforce compliance with this division or with any regulation or order issued under this division. Upon a proper showing, a restraining order, preliminary or permanent injunction, or writ of mandate shall be granted, and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(b) Any receiver or conservator appointed by the court pursuant to subdivision (a) may, with the approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the superintendent or the receiver or conservator by reason of the exercise of powers or the performance of duties pursuant to the order, or with the approval of, the court.

(c) The superintendent may include in any action authorized under subdivision (a) a claim for ancillary relief, including a claim for restitution or damages on behalf of the persons injured by the act constituting the subject matter of the action, and the court shall have jurisdiction to award such additional relief.

SEC. 231. Section 34113 of the Financial Code is amended to read:

34113. (a) If the superintendent finds that any of the factors set forth in Section 34109 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of payment instruments issued by the licensee or for the protection of the public interest that the superintendent take immediate possession of the property and business of the licensee, the superintendent may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the superintendent, resume business upon such conditions as the superintendent may prescribe.

(b) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of

Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the superintendent to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the superintendent from further proceedings and order the superintendent to surrender the property and business of the licensee to the licensee or make such further order as may be just. The judgment of the superior court may be appealed by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court.

(c) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the superintendent shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of the article (except Sections 3100, 3101, and 3102) apply as if the licensee were a bank.

SEC. 232. Section 12150.6 of the Fish and Game Code is amended to read:

12150.6. (a) Any person who has been prohibited from taking any bird or mammal pursuant to Section 12150 or 12151 shall not apply for a hunting license or take any bird or mammal unless the person has filed with the department proof of ability to respond in damages in an amount of at least ten thousand dollars ($10,000) for personal injury or death of any person, subject to a maximum of twenty thousand dollars ($20,000) for such injury or the death of two or more persons in any one accident and at least five thousand dollars ($5,000) for property damage resulting from any one accident.

(b) Proof of ability to respond in damages may be given by any of the following:

(1) The written certificate of any insurance carrier duly authorized to do business within the state that it has issued to or for the benefit of the person named a public liability insurance policy which is, at the date of the certificate, in full force and effect. The certificate shall certify that the policy therein cited shall not be canceled except upon 10 days' prior written notice to the department.

(2) A bond in the amount of twenty-five thousand dollars ($25,000) approved by a judge of a court of record. The bond shall be conditioned for the payment of the amounts specified in this section and shall provide for the entry of judgment on motion of the state in favor of any holder of any final judgment on account of damages to property or injury to any person caused while the licensee is taking any bird or mammal.

SEC. 233. Section 11935 of the Food and Agricultural Code is amended to read:

11935. Proof of such financial responsibility may be made by furnishing security in an amount not less than twenty-five thousand dollars ($25,000). The security may consist of any of the following:

(a) A surety bond in favor of any person that may suffer damage by reason of any pest control operation by the operator which is executed by an admitted surety insurer.

(b) An insurance policy which insures the operator against liability for damages pursuant to the judgment.

SEC. 234. Section 55649 of the Food and Agricultural Code is amended to read:

55649. In an action that is filed by any such lien claimant, the defendant processor may file with the court in which the action is pending a surety bond in an amount that is sufficient to cover the demand of plaintiff's complaint, including the costs, whereupon the court may order the release of a portion or the whole of any product or processed product upon which the lien of plaintiff has attached.

SEC. 235. Section 57193 of the Food and Agricultural Code is amended to read:

57193. If judicial review of the decision of the director is sought, the decision of the director shall remain in effect pending the determination of the review, unless the party that seeks the review files with the court a bond in a sum to be fixed by the court, in favor of the people and conditioned upon the faithful performance of all those things which are ordered to be done, or the faithful observance of such restraint as may be directed by the director. The bond shall be for the benefit of any person that has dealings with the person that seeks the review.

SEC. 236. Section 57194 of the Food and Agricultural Code is repealed.

SEC. 237. Section 59958 of the Food and Agricultural Code is amended to read:

59958. The director, in addition to other remedies which are provided by law, may direct suit in the name of the people of this state as plaintiff, to be brought for the recovery of fees as provided in this chapter. In such case, the director may make the necessary affidavit for and a writ of attachment may issue. All fees collected in this manner shall be handled as provided in this article.

SEC. 238. Section 1502 of the Government Code is repealed.

SEC. 239. Section 1503 of the Government Code is repealed.

SEC. 240. The heading of Article 4 (commencing with Section 1530) of Chapter 3 of Division 4 of Title 1 of the Government Code is amended to read:

Article 4. Qualifications of Sureties

SEC. 241. Section 1530 of the Government Code is amended to read:

1530. The officer whose duty it is to approve official bonds required of officers of a county or judicial district not named in Section 1458 shall not accept or approve any such bond unless the affidavit of each of the personal sureties on the bond contains a statement that the surety is a resident, and either an owner of real

property or householder, within the county or within an adjoining county.

SEC. 242. Section 1531 of the Government Code is amended to read:

1531. The sureties on the bonds of all officers of a county or judicial district named in Section 1458 shall first be approved by the judge or judges of the superior court as is provided for the approval of the bond of their principals, before their principals' bonds may be recorded and filed.

SEC. 243. Article 5 (commencing with Section 1550) of Chapter 3 of Division 4 of Title 1 of the Government Code is repealed.

SEC. 244. Article 6 (commencing with Section 1580) of Chapter 3 of Division 4 of Title 1 of the Government Code is repealed.

SEC. 245. Article 7 (commencing with Section 1600) of Chapter 3 of Division 4 of Title 1 of the Government Code is repealed.

SEC. 246. Section 4201 of the Government Code is amended to read:

4201. A bidder shall not be relieved of the bid unless by consent of the awarding authority nor shall any change be made in the bid because of mistake, but the bidder may bring an action against the public entity in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount forfeited, without interest or costs. If the plaintiff fails to recover judgment, the plaintiff shall pay all costs incurred by the public entity in the suit, including a reasonable attorney's fee to be fixed by the court.

SEC. 246.5. Section 8212 of the Government Code is amended to read:

8212. Every person appointed a notary public shall execute an official bond in the sum of ten thousand dollars ($10,000). The bond shall be in the form of a bond executed by an admitted surety insurer and not a deposit in lieu of bond.

SEC. 247. Section 8213 of the Government Code is amended to read:

8213. (a) No later than 30 days after the beginning of the term prescribed in the commission, every person appointed a notary public shall file an official bond, and take, subscribe, and file an oath of office in the office of the county clerk of the county within which the person maintains a principal place of business as shown in the application submitted to the Secretary of State, and the commission shall not take effect unless this is done within the 30-day period. Upon filing the oath and bond, the county clerk shall forthwith transmit to the Secretary of State a certificate setting forth the fact of such filing and containing a copy of the official oath, personally signed by the notary public in the form set forth in the commission and shall forthwith deliver the bond to the county recorder for recording.

(b) If a notary public transfers the principal place of business from one county to another, the notary public may file a new oath of office and bond, or a duplicate of the original bond with the county clerk to which the principal place of business was transferred. If the notary

public elects to make a new filing, the notary public shall, within 30 days of the filing, obtain an official seal which shall include the name of the county to which the notary public has transferred. In such a case, the same filing and recording fees are applicable as in the case of the original filing and recording of the bond.

(c) A recording fee of three dollars ($3) shall be paid by the person appointed a notary public. The fee may be paid to the county clerk who shall transmit it to the county recorder.

(d) The county recorder shall record the bond and shall thereafter mail, unless specified to the contrary, it to the person named in the instrument and, if no person is named, to the party leaving it for recording.

SEC. 248. Section 8214 of the Government Code is amended to read:

8214. For the official misconduct or neglect of a notary public, the notary public and the sureties on the notary public's official bond are liable in a civil action to the persons injured thereby for all the damages sustained.

SEC. 249. Section 8216 of the Government Code is amended to read:

8216. When a surety of a notary desires to be released from responsibility on account of future acts, the release shall be pursuant to Article 11 (commencing with Section 996.110), and not by cancellation or withdrawal pursuant to Article 13 (commencing with Section 996.310), of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure. For this purpose the surety shall make application to the superior court of the county in which the notary public's principal place of business is located and the copy of the application and notice of hearing shall be served on the Secretary of State as the beneficiary.

SEC. 250. Section 8217 of the Government Code is repealed.

SEC. 251. Section 8218 of the Government Code is repealed.

SEC. 252. Section 8222 of the Government Code is amended to read:

8222. (a) Whenever it appears to the Secretary of State that any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or any rule or regulation prescribed under the authority thereof, the Secretary of State may apply for an injunction, and upon a proper showing, any court of competent jurisdiction has power to issue a permanent or temporary injunction or restraining order to enforce the provisions of this chapter, and any party to the action has the right to prosecute an appeal from the order or judgment of the court.

(b) The court may order a person subject to an injunction or restraining order provided for in this section to reimburse the Secretary of State for expenses incurred in the investigation related to the petition. The Secretary of State shall refund any amount received as reimbursement should the injunction or restraining order be dissolved by an appellate court.

SEC. 253. Section 25549.11 of the Government Code is amended to read:

25549.11. (a) After considering all proposals submitted, the board of supervisors shall have the authority to select the plan or proposal which best meets the needs of the county or city and county and to enter into a lease or agreement incorporating that plan or proposal either as submitted or as revised by the board.

(b) The board shall require any person, firm, or corporation with whom it enters into a lease or agreement pursuant to this article to file a bond for the performance of the lease or agreement for the completion of the building to be constructed.

SEC. 254. Section 26855.3 of the Government Code is amended to read:

26855.3. The fee for issuing a certificate pursuant to Section 995.640 of the Code of Civil Procedure is three dollars ($3).

SEC. 255. Section 50512 of the Government Code is amended to read:

50512. If the property is offered for lease at a monthly rental, all bids shall be accompanied by a bond in the amount fixed by the legislative body.

SEC. 256. Section 50513 of the Government Code is amended to read:

50513. If the petition requires the making of improvements upon the property and the payment of rentals in products from the land, royalties, or commissions, the bidder shall furnish with the bid a bond in the amount fixed by the legislative body and conditioned for the faithful performance of the obligations assumed by the bidder.

SEC. 257. Section 53461 of the Government Code is amended to read:

53461. The legislative body of a local agency may issue a new bond similar to the original to replace it if:

(a) By competent proof it is made to appear to the legislative body that a bond issued by the local agency is lost or destroyed.

(b) The owner gives an undertaking approved by the legislative body to indemnify the local agency against any loss incurred on account of the bond.

(c) The owner pays all cost of the issuance of the new bond.

SEC. 258. Section 53464 of the Government Code is amended to read:

53464. The court shall inquire into the truth of the facts stated in the petition and hear the proofs and allegations of the petition. If satisfied that the petitioner is the lawful owner of the bond described in the petition, that it has been lost or destroyed and can not after due diligence be found, and that no sufficient cause has been shown why a new bond to replace it should not be issued, the court shall make an order requiring the legislative body to issue and deliver, or cause to be issued and delivered, to the petitioner a new bond in place of the lost or destroyed bond, upon the petitioner giving such an undertaking to the legislative body as the court directs.

SEC. 259. Section 53466 of the Government Code is amended to read:

53466. The undertaking required by this article, duly indorsed as approved, shall be filed in the office of the clerk or the treasurer of the issuing local agency as the legislative body directs.

SEC. 260. Section 71682 of the Government Code is amended to read:

71682. The fee for taking and approving a bond or undertaking, is one dollar and fifty cents ($1.50).

SEC. 261. Section 495.5 of the Harbors and Navigation Code is amended to read:

495.5. The owner, or the master agent, or consignee of the vessel, may, on behalf of the owner, appear and answer or plead to the action and may object to the undertaking filed on behalf of the plaintiff.

SEC. 262. Section 495.6 of the Harbors and Navigation Code is amended to read:

495.6. After the attachment is levied, the owner, or the master, agent, or consignee of the vessel, may, in behalf of the owner, have the attachment discharged, upon filing with the court, subject to the provisions of Section 489.060 of the Code of Civil Procedure, an undertaking in an amount sufficient to satisfy the demand in the suit, besides costs. Upon receiving notice of the filing of the undertaking with the court, the sheriff, marshal, or constable shall restore to the owner, or the master, agent, or consignee of the owner, the vessel attached.

SEC. 263. Section 515 of the Harbors and Navigation Code is amended to read:

515. Before making the order, the judge shall require from the claimant a bond to the people to be approved by the judge and filed with the county clerk, in a penalty double the value of the property or proceeds. The bond shall be conditioned upon the payment of all damages that may be recovered against the claimant or the claimant's representatives, within three years after its date, by any person establishing title to the property or proceeds.

SEC. 264. Section 731 of the Harbors and Navigation Code is amended to read:

731. A deposit given instead of the bond required by Section 730 shall be held by the department during the life of the license and for a period of four years subsequent to the expiration of the license.

SEC. 265. Section 4042 of the Harbors and Navigation Code is amended to read:

4042. (a) Each commissioner shall, within 20 days after receiving notice of appointment, qualify by taking and subscribing the constitutional oath of office, and by executing and filing with the clerk of the county wherein the commissioner is appointed, a bond in a sum to be fixed by the board of supervisors which bond, when approved by the judge or judges of the superior court of the county, shall be recorded in the office of the county recorder, as other official

bonds are recorded, at any time subsequent to 20 days after the appointment.

(b) The commissioners, or a majority of them having qualified, shall meet at some convenient place in the county and organize by electing one of their number chairman.

SEC. 266. Section 1318 of the Health and Safety Code is amended to read:

1318. (a) The director shall require as a condition precedent to the issuance, or renewal, of any license for a health facility, if the licensee handles or will handle any money of patients within the health facility, that the applicant for the license or the renewal of the license file or have on file with the state department a bond executed by an admitted surety insurer in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon the licensee's faithful and honest handling of the money of patients within the health facility.

(b) Every person injured as a result of any improper or unlawful handling of the money of a patient of a health facility may bring an action in a proper court on the bond required to be posted by the licensee pursuant to this section for the amount of damage the person suffered as a result thereof to the extent covered by the bond.

(c) The failure of any licensee under this section to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles any patient's trust funds shall constitute cause for the revocation of the license.

(d) The provisions of this section shall not apply if the licensee handles less than twenty-five dollars ($25) per patient and less than five hundred dollars ($500) for all patients in any month.

(e) The director may exempt licensed health facilities of the types specified in subdivisions (a), (b), (c), and (f) of Section 1250 from the requirements of this section. However, the exemption from the bond purchase requirements of this section shall not affect the financial liability of such health facilities.

SEC. 267. Section 1376 of the Health and Safety Code is amended to read:

1376. (a) No plan shall conduct any activity regulated by this chapter in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of plans, subscribers, and enrollees to provide safeguards with respect to the financial responsibility of plans. Such rules and regulations may require a minimum capital or net worth, limitations on indebtedness, procedures for the handling of funds or assets, including segregation of funds, assets and net worth, the maintenance of appropriate insurance and a fidelity bond, and the maintenance of a surety bond in an amount not exceeding ten thousand dollars ($10,000).

(b) The surety bond referred to in subdivision (a) shall be

conditioned upon compliance by the licensee with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter and orders issued under this chapter. Every surety bond shall provide that no suit may be maintained to enforce any liability thereon unless brought within two years after the act upon which such suit is based.

(c) For purposes of computing any minimum capital requirement which may be prescribed by the rules and regulations of the commissioner under subdivision (a), any operating cost assistance or direct loan made to a plan by the United States Department of Health, Education and Welfare pursuant to Public Law 93-222, as amended, may be treated as a subordinated loan, notwithstanding any express terms thereof to the contrary.

(d) Each solicitor and solicitor firm shall handle funds received for the account of plans, subscribers, or groups in accordance with such rules as the commissioner may adopt pursuant to this subdivision.

(e) The commissioner may, by regulation, designate requirements of this section or regulations adopted pursuant to this section, from which public entities and political subdivisions of the state shall be exempt.

SEC. 268. Section 1392 of the Health and Safety Code is amended to read:

1392. (a) In the case of any violation of the provisions of this chapter, the commissioner may institute a proceeding, or the commissioner may request the Attorney General to institute a proceeding, to obtain injunctive or other equitable relief, including the appointment of a receiver or conservator for the defendant or the defendant's assets, in the superior court in and for the county in which the violation occurs, or in which the principal place of business of the plan is located. The proceeding under this section shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the commissioner shall not be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage.

(b) Upon a proper showing, the court shall grant the relief provided by law and requested by the commissioner.

(c) A receiver or conservator appointed by the superior court pursuant to this section may, with the approval of the court, exercise all of the powers of the officers and directors of the plan, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver or conservator, by reason of their exercising the powers of the officers and directors of a plan pursuant to the order of, or with the approval of, the superior court.

SEC. 269. Section 1560 of the Health and Safety Code is amended to read:

1560. (a) The director shall require as a condition precedent to

the issuance, or renewal, of any license or special permit for a community care facility, if the licensee or holder of a special permit handles or will handle any money of a person within the community care facility, that the applicant for the license or special permit or the renewal of the license or special permit file or have on file with the state department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.

(c) The provisions of this section shall not apply if the licensee meets both of the following requirements:

(1) The licensee operates a community care facility which is licensed to care for children including, but not limited to, a family day care home or foster family home.

(2) The licensee handles moneys of persons within the community care facility in amounts less than fifty dollars ($50) per person and less than five hundred dollars ($500) for all persons in any month.

SEC. 270. Section 1712 of the Health and Safety Code is amended to read:

1712. (a) Any violation of this chapter, of the regulations promulgated thereunder or of a cease and desist order issued by the department under Section 1711 or 1711.1 may be enjoined by the superior court in any county, on application of the department.

(b) Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 271. Section 1773 of the Health and Safety Code is amended to read:

1773. Before issuing the certificate of authority, the state department may, if it deems it necessary to safeguard the interests of the aged in the state, require any applicant for a certificate to file with the state department, and maintain in effect during the period that the certificate of authority is in force, a bond executed by an admitted surety insurer, in an amount satisfactory to the state department, conditioned that the principal will faithfully perform all obligations undertaken by the principal pursuant to the certificate of authority, to and for the use and benefit of all persons who may be injured or aggrieved by the failure of the principal to perform any such obligation.

SEC. 272. Section 1812 of the Health and Safety Code is amended to read:

1812. If it appears from the complaint in the action that the property on which the lien is to be foreclosed is likely to be removed from the jurisdiction of the court, the court may appoint a receiver to take possession of the property and hold it while the action is pending or until the defendant executes and files a bond, conditioned for the payment of any judgment that may be recovered against the defendant in the action and of all costs.

SEC. 273. Section 8734 of the Health and Safety Code is amended to read:

8734. (a) Except as provided in subdivisions (b), (c), and (d), the board of trustees or corporate trustee of an endowment care fund or one or more special care funds shall file a fidelity bond executed by an admitted surety insurer with the Cemetery Board in the amount of fifty thousand dollars ($50,000), guaranteeing payment to each such fund of any monetary loss incurred by the fund occasioned by acts of fraud or dishonesty by the trustees or trustee. The board of trustees or corporate trustee of both an endowment care fund and one or more special care funds need file only one such bond.

(b) Any cemetery authority which has a fidelity bond on all officers and employees issued by an admitted surety insurer and which by its terms would cover any acts of fraud or dishonesty by the trustees or corporate trustee of its endowment and special care funds need not file a separate bond with the Cemetery Board as provided in subdivision (a), but shall submit to the Cemetery Board satisfactory evidence of such a fidelity bond. Such fidelity bond, except as provided in subdivision (c), shall provide at least fifty thousand dollars ($50,000) specifically designated to guarantee payment of any monetary loss incurred by the endowment care or special care funds of the cemetery authority occasioned by any acts of fraud or dishonesty by the board of trustees or corporate trustee thereof.

(c) Upon application, the Cemetery Board may reduce the amount of the bond required pursuant to this section if moneys in the endowment care fund and special care funds administered by the applicant board of trustees or corporate trustee are substantially less than fifty thousand dollars ($50,000). In such cases, the Cemetery Board may permit filing of a bond pursuant to subdivision (a) or (b) which, while the bond is on file, is not less than the aggregate amount of all moneys in the endowment care fund and special care funds administered by the applicant. If the Cemetery Board permits exceptions pursuant to this subdivision, it shall adopt procedures to assure that affected bonds do not fall below such amount.

(d) The trustees or corporate trustee of an endowment care fund or special care fund shall take no action respecting trust funds unless there is on file with the board a bond as required by this section. The Cemetery Board may suspend the certificate of authority of any cemetery authority having endowment or special care funds with respect to which there is no bond on file with the board as required by this section, or whenever such a bond falls below the amount

required by this section.

(e) Any state or national bank authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) of the Financial Code shall be exempt from the requirements of this section.

SEC. 274. Section 11126 of the Health and Safety Code is repealed.

SEC. 275. Section 11574 of the Health and Safety Code is amended to read:

11574. On granting the temporary writ the court or judge shall require an undertaking on the part of the applicant to the effect that the applicant will pay to the defendant enjoined such damages, not exceeding an amount to be specified, as the defendant sustains by reason of the injunction if the court finally decides that the applicant was not entitled to the injunction.

SEC. 276. Section 11586 of the Health and Safety Code is amended to read:

11586. (a) If the owner of the building or place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees, and allowances that are a lien on the building or place and files a bond in the full value of the property conditioned that the owner will immediately abate any nuisance that may exist at the building or place and prevent it from being established or kept thereat within a period of one year thereafter, the court, or judge may, if satisfied of the owner's good faith, order the building or place to be delivered to the owner, and the order of abatement canceled so far as it may relate to the property.

(b) The release of property under the provisions of this division does not release it from any judgment, lien, penalty, or liability to which it may be subject.

SEC. 277. Section 42355 of the Health and Safety Code is amended to read:

42355. (a) The hearing board may require, as a condition of granting a variance, that a bond be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. The bond may provide that, if the party granted the variance fails to perform the work by the agreed date, the bond shall be forfeited to the district having jurisdiction, or the sureties shall have the option of promptly remedying the variance default or paying to the district an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(b) The provisions of this section do not apply to vessels so long as the vessels are not operating in violation of any federal law enacted for the purpose of controlling emissions from combustion of vessel fuels.

SEC. 278. Section 847 of the Insurance Code is amended to read:

847. At the time of filing an application for a broker's certificate,

the applicant shall file with the commissioner a bond for five thousand dollars, payable to the people of the State of California, for the use and benefit of any interested person, to be approved by the commissioner. The bond shall be conditioned upon the following conduct by the broker, the broker's agents, and employees:

(a) Strict compliance with the provisions of this article.

(b) Honest and faithful application of all funds received.

(c) Honest and faithful performance of all obligations and undertakings in the purchase or sale of securities.

(d) Payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this article, or by reason of any fraud connected with or growing out of any transaction contemplated by the provisions of this article.

SEC. 279. Section 848 of the Insurance Code is repealed.

SEC. 280. Section 849 of the Insurance Code is repealed.

SEC. 281. Section 1300.5 of the Insurance Code is repealed.

SEC. 282. Section 1326 of the Insurance Code is amended to read:

1326. The attorney's bond shall be in the penal sum of fifty thousand dollars ($50,000), conditioned that the attorney will faithfully account for all moneys and other property which come into his or her hands or are handled by him or her under the terms of the power of attorney and the rules of the exchange, and that the attorney will neither withdraw nor cause to be withdrawn nor appropriate for his or her own use, from the funds of the exchange, anything of value to which he or she is not entitled under the terms of the power of attorney and the rules.

SEC. 283. Section 1616 of the Insurance Code is amended to read:

1616. Before any nonadmitted foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, the insurer shall either (1) procure a certificate of authority to transact insurance in this state; or (2) give a bond in the action, suit or proceeding in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in the action, suit, or proceeding.

SEC. 284. Section 1620 of the Insurance Code is amended to read:

1620. (a) The provisions of the preceding sections of this article shall not apply to any action, suit or proceeding against any unauthorized foreign or alien insurer arising out of any contract of insurance effected in accordance with Sections 1760.5 and 1763 where such contract contains a provision designating a resident of this state or any firm of which one member is a resident of this state to be its true and lawful attorney upon whom may be served all lawful process in any such action, suit or proceeding.

(b) In any such action, suit or proceeding arising out of any such contract of insurance, the court may require the insurer to file a bond, in an amount sufficient to secure the payment of any final judgment which may be rendered unless the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities in trust or otherwise, sufficient and

available to satisfy any such final judgment and that it will pay the judgment without requiring suit to be brought thereon in the state where the securities or funds are located.

SEC. 285. Section 1664 of the Insurance Code is repealed.

SEC. 286. Section 1665 of the Insurance Code is amended to read:

1665. The bond of an insurance broker shall be in the amount of five thousand dollars ($5,000). The bond shall be contingent on the accounting by the broker to any person requesting the broker to obtain insurance, for moneys or premiums collected by the broker for insurance other than life.

SEC. 287. Section 1760.5 of the Insurance Code is amended to read:

1760.5. (a) The provisions of this chapter limiting the insurance which may be placed with nonadmitted insurers and requiring any report thereof shall not apply to:

(1) Reinsurance of the liability of an admitted insurer.

(2) Insurance against perils of navigation, transit or transportation upon hulls, freights or disbursements, or other shipowner interests; upon goods, wares, merchandise and all other personal property and interests therein, in course of exportation from or importation into any country, or transportation coastwise, including transportation by land or water from point of origin to final destination and including war risks; and marine builder's risks, drydocks and marine railways, including insurance of ship repairer's liability, and protection and indemnity insurance, but excluding insurance covering bridges or tunnels.

(3) Aircraft insurance.

(4) Insurance on property or operations of railroads engaged in interstate commerce.

(b) The insurance specified in paragraphs (2), (3), and (4) of subdivision (a) may be placed with a nonadmitted insurer only by and through a special lines' surplus line broker. The license of a special lines' surplus line broker shall be applied for and procured and shall be subject to the same fees for filing on issuance in the same manner as the license of a surplus line broker, except that in lieu of the bond required by Section 1765, there shall be delivered to the commissioner a bond in the form, amounts, and conditions specified in Sections 1663 and 1665 for an insurance broker and only one fee shall be collected from one person for both licenses. The licensee in respect to the business shall be subject to all the provisions of this chapter except Sections 1761, 1763, and 1775.5.

(c) The commissioner may, in respect to business written or placed under the provisions of this section, require such information and reports thereof as the commissioner considers necessary, convenient or advisable for tax or statistical purposes.

(d) Each placing of insurance in violation of this chapter is a misdemeanor.

(e) The commissioner may revoke, suspend or deny any license granted pursuant to this code in accordance with the procedure

provided in Article 13 (commencing with Section 1737) of Chapter 5, or any certificate of authority granted pursuant to this code in accordance with the procedure provided in Section 704 whenever the commissioner finds that the licensee or holder of the certificate has committed a violation of this section.

(f) The premium for insurance placed by or through a special lines' surplus line broker pursuant to this section shall not be subject to the tax imposed upon the broker based upon gross premiums paid for insurance placed under authority conferred by the license.

SEC. 288. Section 1765 of the Insurance Code is amended to read:

1765. (a) A license under this chapter shall be applied for and renewed by the filing with the commissioner of a written application therefor, in accordance with the provisions of Section 1652.

(b) Subject to subdivision (f) of this section, the commissioner shall issue a license authorizing any applicant who is trustworthy and competent to transact an insurance brokerage business in such manner as to safeguard the interest of the insured, to act as a surplus line broker from the date of the license until the expiration date specified in subdivision (b) of Section 1630.

(c) An applicant for a surplus line broker's license shall, as part of the application and a condition of the issuance of the license, file a bond to the people of the State of California in the sum of fifty thousand dollars ($50,000), conditioned that the licensee will fully and faithfully comply with the requirements of this chapter, and all applicable provisions of this code. The bond shall be subject to the provisions of Sections 1662 and 1663.

(d) The filing fee for a license to act as a surplus line broker, and naming up to two natural persons on the license, shall be two hundred fifty dollars ($250) per year, or for any initial fractional license year. If more than two natural persons are named on the license, an additional fee of seventy dollars ($70) per year, or for any initial fractional license year, shall be paid for each additional natural person named on the license.

(e) Such license shall be renewed in accordance with and subject to, the provisions of Sections 1717, 1718, 1719, and 1720.

(f) The commissioner may deny, suspend or revoke any license applied for or granted pursuant to this chapter on all or any one of the grounds and in accordance with the procedures provided in Article 6 (commencing with Section 1666) and Article 13 (commencing with Section 1737) of Chapter 5, whenever the commissioner finds that the applicant or licensee has committed a violation of any provision of this code.

SEC. 289. Section 1766 of the Insurance Code is repealed.

SEC. 290. Section 1803.5 of the Insurance Code is repealed.

SEC. 291. Section 1841 of the Insurance Code is amended to read:

1841. (a) Every applicant for a license to act as a life insurance analyst shall file with the application or maintain in effect a bond to the people of the State of California, duly executed by an admitted surety insurer, approved by the commissioner, in the amount of two

thousand dollars ($2,000).

(b) The bond shall indemnify any person who may be damaged by any fraudulent act or conduct of the licensee in connection with the licensee's activities as a life insurance analyst and shall be conditioned upon the faithful accounting and application of all moneys coming into the licensee's possession in connection with the activities as a life insurance analyst.

SEC. 292. Section 11011 of the Insurance Code is amended to read:

11011. The articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society, and a bond, conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year, such bond to be in the amount of ten thousand dollars ($10,000) and approved by the commissioner, shall be filed with the commissioner, who may require such further information as the commissioner deems necessary. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided. Copies of the articles of incorporation shall also be filed with the Secretary of State.

SEC. 293. Section 11696 of the Insurance Code is repealed.

SEC. 294. Section 11698 of the Insurance Code is repealed.

SEC. 295. Section 11711 of the Insurance Code is repealed.

SEC. 296. Section 11712 of the Insurance Code is repealed.

SEC. 297. Section 12629.43 of the Insurance Code is amended to read:

12629.43. No appeal from an order of the superior court approving or modifying a plan shall be effectual for any purpose unless within 30 days after the entry of the order the appellant or appellants file with the clerk of the court a bond to the effect that the appellant or appellants, in the event the order is affirmed on appeal, will pay all of respondent's costs, expenses and reasonable attorney's fees arising from the appeal, and also all losses and damages to the certificate holders, creditors and other persons, if any, affected by the plan, arising from any delay in consummating the plan during the pendency of the appeal. The form of the bond shall be approved and the amount of the bond fixed by the superior court. In no case shall the bond be for an amount greater than 1 percent of the total liabilities of the insurer, provided that if mortgage participation certificates are affected by the plan the bond shall be for an amount not more than 1 percent of the total liabilities of the insurer plus 1 percent of the aggregate face amount of all mortgage participation certificates of the insurer outstanding.

SEC. 298. Section 240 of the Labor Code is amended to read:

240. (a) If any employer has been convicted of a violation of any provision of this article, or if any judgment against an employer for nonpayment of wages remains unsatisfied for a period of 10 days after the time to appeal therefrom has expired, and no appeal therefrom is then pending, the Labor Commissioner may require the employer to deposit a bond in such sum as the Labor Commissioner may deem sufficient and adequate in the circumstances, to be approved by the Labor Commissioner. The bond shall be payable to the Labor Commissioner and shall be conditioned that the employer shall, for a definite future period, not exceeding six months, pay the employees in accordance with the provisions of this article, and shall be further conditioned upon the payment by the employer of any judgment which may be recovered against the employer pursuant to the provisions of this article.

(b) If within 10 days after demand for the bond, which demand may be made by mail, the employer fails to deposit the bond, the Labor Commissioner may bring an action in the name and on behalf of the people of the State of California against the employer in a court of competent jurisdiction to compel the employer to furnish the bond or to cease doing business until the employer has done so. The employer has the burden of proving either that the bond is unnecessary or that the amount demanded is excessive. If the court finds that there is just cause for requiring the bond, and that the bond is reasonably necessary or proper to secure prompt payment of the wages of the employees of the employer and the employer's compliance with the provisions of this article, the court may enjoin the employer, whether an individual, partnership, corporation, company, trust, or association, and such other person or persons as may have been or may be concerned with or in any way participating in the failure to pay the wages resulting in the conviction or in the judgment, from doing business until the requirement is met, and make other and further orders appropriate to compel compliance with the requirement.

SEC. 299. Section 1684 of the Labor Code is amended to read:

1684. The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew such license, until all of the following conditions are satisfied:

(a) The person has executed a written application therefor in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing (1) a statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued, and (2) the names and addresses of all persons except bona fide employees on stated salaries, financially interested, either as partners, associates or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(b) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(c) The person has deposited with the Labor Commissioner a surety bond in the sum of five thousand dollars ($5,000). The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure so to do, or by any violation of the provisions of this chapter, or false statements or misrepresentations made in the procurement of the license. If a deposit is given instead of a bond, the Labor Commissioner may charge reasonable legal fees against the deposit for handling claims, other than wage claims, filed against the deposit.

(d) The person has paid to the Labor Commissioner a license fee of one hundred dollars ($100) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten-dollar ($10) filing fee is not required. The Labor Commissioner shall deposit twenty-five dollars ($25) of each licensee's annual license fee into a separate account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond. Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the separate account.

(e) The person in an oral or written examination, or both, demonstrates a degree of knowledge of the laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers and the public. The Labor Commissioner may charge a fee of not more than thirty-five dollars ($35) to cover the cost of administration of the examination. The Labor Commissioner may also renew a license without requiring the applicant for renewal to take an oral or written examination if the Labor Commissioner finds that the applicant has complied with the requirements of this chapter.

(f) The person has registered as a farm labor contractor pursuant to the Federal Farm Labor Contractor Registration Act (Chapter 52 (commencing with Section 2041), Title 7, United States Code), when registration is required pursuant to federal law.

SEC. 300. Section 1687 of the Labor Code is amended to read:

1687. (a) Each license shall contain, on the face thereof, all of the following:

(1) The name and address of the licensee and the fact that the licensee is licensed to act as a farm labor contractor for the period upon the face of the license only.

(2) The number, date of issuance, and date of expiration of the license.

(3) The amount of the surety bond deposited by the licensee.

(4) The fact that the license may not be transferred or assigned.

(b) The license shall contain on the back thereof the definition of a farm labor contractor, as defined by subdivision (b) of Section 1682.

SEC. 301. Section 1688 of the Labor Code is amended to read:

1688. The license when first issued shall run to the next birthday of the applicant, and each license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership or corporation, the license for a partnership shall be renewed within the 30 days preceding the birthday of the oldest partner, and the license for a corporation shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond, and the payment of the annual license fee, but the Labor Commissioner may demand that a new application or a new bond be submitted.

SEC. 302. Section 1688.5 of the Labor Code is repealed.

SEC. 303. Section 1691 of the Labor Code is repealed.

SEC. 304. Section 1693 of the Labor Code is amended to read:

1693. The Labor Commissioner and the deputies and representatives authorized by the Labor Commissioner in writing may take assignments of actions on the bond against licensees by persons damaged and may prosecute such actions on behalf of persons who, in the judgment of the Labor Commissioner, are financially unable to employ counsel, in the same manner that claims are prosecuted under Section 98.

SEC. 305. Section 1697 of the Labor Code is amended to read:

1697. (a) Any person who violates any provisions of this chapter, or who causes or induces another to violate any provisions of this chapter, is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars ($500), or imprisonment in the county jail for not more than six months, or both.

(b) Any employee aggrieved by any violation of this chapter, other than acts and conduct also proscribed by Sections 1153, 1154, and 1155, may do all of the following:

(1) Bring a civil action for injunctive relief or damages, or both, against the farm labor contractor and, upon prevailing, shall recover reasonable attorney's fees.

(2) Enforce the liability on the farm labor contractor's bond.

SEC. 306. Section 1700.17 of the Labor Code is repealed.

SEC. 307. Section 1700.42 of the Labor Code is repealed.

SEC. 308. Section 1700.43 of the Labor Code is repealed.

SEC. 309. Section 3712 of the Labor Code is amended to read:

3712. (a) The securing of the payment of compensation in a way provided in this division is essential to the functioning of the expressly declared social public policy of this state in the matter of workers' compensation. The conduct or operation of any business or undertaking without full compensation security, in continuing violation of social policy, shall be subject to imposition of business

strictures and monetary penalties by the director, including, but not limited to, resort to the superior court of any county in which all or some part of the business is being thus unlawfully conducted or operated, for carrying out the intent of this article.

(b) In a proceeding before the superior court in matters concerned with this article, no filing fee shall be charged to the plaintiff; nor may any charge or cost be imposed for any act or service required of or done by any state or county officer or employee in connection with the proceeding. If the court or the judge before whom the order to show cause in the proceeding is made returnable, finds that the defendant is conducting or operating a business or undertaking without the full compensation security required, the court or judge shall forthwith, and without continuance, issue an order restraining the future or further conduct and operation of the business or undertaking so long as the violation of social public policy continues. The action shall be prosecuted by the Attorney General of California, the district attorney of the county in which suit is brought, the city attorney of any city in which such a business or undertaking is being operated or conducted without full compensation security, or any attorney possessing civil service status who is an employee of the Department of Industrial Relations who may be designated by the director for that purpose. No finding made in the course of any such action is binding on the appeals board in any subsequent proceeding before it for benefits under this division.

SEC. 310. Section 6000 of the Labor Code is amended to read:

6000. The operation of any order, decision, or award of the appeals board under the provisions of this division or any judgment entered thereon, shall not at any time be stayed by the court to which petition is made for a writ of review, unless an undertaking is executed on the part of the petitioner.

SEC. 311. Section 7303 of the Labor Code is amended to read:

7303. Whenever any elevator in any place of employment is being operated without the permit herein required, and is in such condition that its use is dangerous to the life or safety of any employee, the division or any person affected thereby may apply to the superior court of the county in which the elevator is located for an injunction restraining the operation of the elevator until the condition is corrected. Proof by certification of the division that a permit has not been issued, together with the affidavit of any safety inspector of the division that the operation of the elevator is dangerous to the life or safety of any employee, is sufficient ground, in the discretion of the court, for the immediate granting of a temporary restraining order.

SEC. 312. Section 7343 of the Labor Code is amended to read:

7343. Whenever an aerial passenger tramway in any place is being operated without the permit herein required, and is in such condition that its use is dangerous to the life or safety of any person, the division, or any person affected thereby, may apply to the superior court of the county in which the aerial passenger tramway

is located for an injunction restraining the operation of the aerial passenger tramway until the condition is corrected. Proof by certification of the division that a permit has not been issued, together with the affidavit of any safety engineer of the division that the operation of the aerial passenger tramway is dangerous to the life or safety of any person, is sufficient ground, in the discretion of the court, for the immediate granting of a temporary restraining order.

SEC. 313. Section 7912 of the Labor Code is amended to read:

7912. No person shall operate an amusement ride unless at the time there is in existence either a policy of insurance in an amount of not less than fifty thousand dollars ($50,000) insuring the owner or operator against liability for injury suffered by persons riding the amusement ride or a bond in a like amount.

SEC. 314. Section 925 of the Military and Veterans Code is amended to read:

925. (a) No money shall be transferred to any person under this article except to the treasurer or financial officer whose name is given in the statement required by Section 922.

(b) The treasurer or financial officer shall, before receiving any money hereunder, file with the board of supervisors a bond or undertaking in an amount fixed by the board of supervisors. The bond shall inure to the benefit of the county and shall be conditioned upon the faithful and honest administration of the funds intrusted to the officer.

SEC. 315. Section 706 of the Penal Code is amended to read:

706. If, however, there is just reason to fear the commission of the offense, the person complained of may be required to enter into an undertaking in such sum, not exceeding five thousand dollars, as the magistrate may direct, to keep the peace towards the people of this state, and particularly towards the informer. The undertaking is valid and binding for six months, and may, upon the renewal of the information, be extended for a longer period, or a new undertaking may be required.

SEC. 316. Section 1276 is added to the Penal Code, to read:

1276. (a) A bail bond or undertaking of bail of an admitted surety insurer shall be accepted or approved by a court or magistrate without further acknowledgment if executed by a licensed bail agent of the insurer under penalty of perjury and issued in the name of the insurer by a person authorized to do so by an unrevoked power of attorney on file in the office of the clerk of the county in which the court or magistrate is located.

(b) One person may both execute and issue the bail bond or undertaking of bail if qualified as provided in this section.

SEC. 317. Section 1447 of the Penal Code is amended to read:

1447. When the defendant is acquitted in an inferior court, if the court certify in the minutes that the prosecution was malicious and without probable cause, the court may order the complainant to pay the costs of the action, or to give an undertaking to pay the costs within 30 days after the trial.

SEC. 318. Section 1448 of the Penal Code is amended to read:

1448. If the complainant does not pay the costs, or give an undertaking therefor, the court may enter judgment against the complainant for the amount of the costs, which may be enforced in all respects in the same manner as a judgment rendered in a civil action.

SEC. 319. Section 11202 of the Penal Code is amended to read:

11202. Whenever the existence of a nuisance is shown in an action brought under this article to the satisfaction of the court or judge thereof, either by verified complaint or affidavit, and the court or judge is satisfied that the owner of the property has received written notice of the existence of the nuisance, signed by the complainant or the district attorney at least two weeks prior to the filing of the complaint, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of the nuisance. On granting such writ the court or judge shall require an undertaking on the part of the applicant to the effect that the applicant will pay to the party enjoined such damages, not exceeding an amount to be specified, as the opposing party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction.

SEC. 320. Section 11232 of the Penal Code is amended to read:

11232. If the owner of the building or place is not guilty of any contempt of court in the proceedings, and appears and pays all costs, fees and allowances which are a lien on the building or place and files a bond in the full value of the property, to be ascertained by the court, conditioned that the owner will immediately abate any nuisance that may exist at the building or place and prevent the nuisance from being established or kept thereat within a period of one year thereafter, the court, or judge thereof, may, if satisfied of the owner's good faith, order the premises closed under the order of abatement, to be delivered to the owner, and the order of abatement canceled so far as the order relates to the property. The release of the property under the provisions of this section does not release it from any judgment, lien, penalty or liability to which it may be subject by law.

SEC. 321. Section 11308 of the Penal Code is amended to read:

11308. If the existence of a nuisance as defined in this article is shown in any action brought under this article to the satisfaction of the court or judge, either by verified complaint or affidavit, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of the nuisance. On granting the temporary writ the court or judge shall require an undertaking on the part of the applicant to the effect that the applicant will pay to the defendant enjoined such damages, not exceeding an amount to be specified, as the defendant sustains by reason of the injunction if the court finally decides that the applicant was not entitled to it.

SEC. 322. Section 11314 of the Penal Code is amended to read:

11314. If the owner of the means of conveyance has not been

guilty of any contempt of court in a proceeding brought under this article, and appears and pays all costs, fees, and allowances that are a lien on the means of conveyance and files a bond in the full value of the means of conveyance, to be ascertained by the court, conditioned that the owner will immediately abate the nuisance and prevent it from being established or resumed within a period of one year thereafter, the court or judge may, if satisfied of the owner's good faith, order the means of conveyance to be delivered to the owner, and the order of abatement canceled so far as it may relate thereto. The release of such means of conveyance under the provisions of this section does not release it from any judgment, lien, penalty, or liability to which it may be subject.

SEC. 323. Section 287 of the Probate Code is amended to read:

287. In case any person shall, within the period of three years after the appointment and qualification of a representative, file a verified petition, claiming to be the missing person and shall also cause a copy thereof to be served personally or by registered mail upon the legal representative and upon each of the heirs, legatees and devisees, an issue shall thereupon be presented to the court to determine the identity of the claimant which issue shall be tried and determined by the court. The court may upon application or of its own motion require the claimant to give an undertaking to be approved by the court for all costs, and expenses involved in the hearing and ultimate determination thereof, in case the issue be decided against the claimant.

SEC. 324. Section 541 of the Probate Code is amended to read:

541. (a) Except as otherwise provided in this section, every person to whom letters testamentary or of administration are directed to issue (unless the testator has waived such requirement) shall, before receiving them, execute a bond to the State of California, to be approved by a judge of the superior court, conditioned that the executor or administrator shall faithfully execute the duties of the trust according to law. If the bond is to be given by personal sureties, the amount shall be not less than twice the value of the personal property and twice the value of the probable annual income from the real property belonging to the estate, which values shall be ascertained by the court or judge by examining on oath the party applying, and any other persons. If the bond is to be given by an admitted surety insurer, the court in its discretion may fix the amount of the bond at not less than the value of the personal property and the probable value of the annual rents, issues and profits of all of the property belonging to the estate.

(b) Unless the will provides for a requirement of a bond, if a verified petition for letters testamentary or of administration alleges that all beneficiaries under the last will and testament of the decedent, or that all heirs at law of the decedent, have waived the filing of a bond, the court, on the hearing of the petition, if the petition so requests, shall direct that no bond be filed.

SEC. 325. Section 541.3 of the Probate Code is repealed.

SEC. 326. Section 545 of the Probate Code is repealed.

SEC. 327. Section 546 of the Probate Code is repealed.

SEC. 328. Section 547 of the Probate Code is repealed.

SEC. 329. Section 548 of the Probate Code is repealed.

SEC. 330. Section 549 of the Probate Code is amended to read:

549. If the court orders that a sufficient surety be substituted or that a new, additional, or supplemental bond be filed, and this is not done within the time fixed by the order, the right of the executor or administrator to the administration shall cease, and the person next entitled to administer the estate, who will execute a sufficient bond, must be appointed. If letters have already been issued to the executor or administrator, the letters shall be revoked, and the authority of the executor or administrator shall thereupon cease.

SEC. 331. Section 550 of the Probate Code is amended to read:

550. When a petition is presented praying that an executor or administrator be required to give bond, where no bond was originally required, or an objection is made to the sufficiency of the bond, and it is alleged, on oath, that the executor or administrator is wasting the property of the estate, the judge, by order, may suspend the powers of the executor or administrator until the matter can be heard and determined.

SEC. 332. Section 551 of the Probate Code is repealed.

SEC. 333. Section 552 of the Probate Code is repealed.

SEC. 334. Section 553 of the Probate Code is repealed.

SEC. 335. Section 553.3 of the Probate Code is amended to read:

553.3. If an administrator or executor moves to have the amount of the bond reduced, the motion shall include an affidavit setting forth the condition of the estate and notice of hearing shall be given in the manner required by Section 1200.5.

SEC. 336. Section 553.5 of the Probate Code is amended to read:

553.5. Any executor or administrator who applies for a substitution and release of a surety shall file with the application an accounting as required by Section 921. The court shall not order a substitution unless the accounting is approved.

SEC. 337. Section 553.6 of the Probate Code is repealed.

SEC. 338. Section 554 of the Probate Code is repealed.

SEC. 339. Section 580 of the Probate Code is amended to read:

580. (a) A creditor making such application must pay such part of the cost and expenses of the suit, or give an undertaking to the executor or administrator therefor, as the court or a judge thereof shall direct.

(b) All property so recovered must be sold for the payment of debts, in the same manner as if the decedent had died seised or possessed thereof, and the proceeds must be appropriated in payment of the debts of the decedent in the same manner as other property in the hands of the executor or administrator. The remainder of the proceeds, after all the debts of the decedent have been paid, must be paid to the person from whom such property was recovered.

SEC. 340. Section 684 of the Probate Code is amended to read:

684. No stay shall be had of payment of any family allowance, or of any installment thereof, pending appeal from an order relating thereto, even though the court, acting under the provisions of Section 916 of the Code of Civil Procedure, shall dispense with or limit the security required of an appellant, if the person in whose favor the allowance is made shall, at any time before the making of such payment, execute and file an undertaking in double the amount of such payment or payments. The undertaking shall be conditioned that if the judgment or order appealed from, or any part thereof, is so modified or reversed that the payment, or any part thereof, proves to be unwarranted, the payment shall, unless deducted from any final or partial distribution ordered in favor of the person for whom the allowance was awarded, be repaid and refunded into the estate within 30 days after the trial court so orders following modification or reversal, together with interest and costs.

SEC. 341. Section 759 of the Probate Code is amended to read:

759. If there is any neglect or misconduct in the proceedings of the executor or administrator in relation to any sale, by which any person interested in the estate suffers damage, the party aggrieved may recover the damage by enforcing the liability upon the bond of the executor or administrator, or otherwise.

SEC. 342. Section 2329 of the Probate Code is amended to read:

2329. (a) If a guardian or conservator moves the court for reduction in the amount of the bond, the motion shall include an affidavit setting forth the condition of the estate.

(b) Notice of hearing shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) Nothing in this section limits the authority of the court to reduce the amount of the bond with or without notice under Section 2328.

SEC. 343. Section 2331 of the Probate Code is repealed.

SEC. 344. Section 2332 of the Probate Code is repealed.

SEC. 345. Section 2334 of the Probate Code is amended to read:

2334. When a petition is filed requesting an order under this section that a guardian or conservator be required to give a bond where no bond was originally required, or an objection is made to the sufficiency of the bond, and the petition alleges facts showing that the guardian or conservator is failing to use ordinary care and diligence in the management of the estate, the court, by order, may suspend the powers of the guardian or conservator until the matter can be heard and determined.

SEC. 346. Section 2335 of the Probate Code is amended to read:

2335. A guardian or conservator who applies for a substitution and release of a surety shall file with the application an accounting. The court shall not order a substitution unless the accounting is approved.

SEC. 347. Section 2336 of the Probate Code is repealed.

SEC. 348. Section 3150 of the Probate Code is amended to read:

3150. (a) Unless the court for good cause dispenses with the bond, the court shall require the petitioner to give a bond, in the amount fixed by the court, conditioned on the duty of the petitioner to account for and apply the proceeds of the transaction to be received by the petitioner only as the court may by order direct.

(b) Unless the court for good cause fixes the amount of the bond in a lesser amount, if given by an authorized surety company, the bond shall be in an amount not less than the value of the personal property (including cash and any notes) to be received by the petitioner, as determined by the court.

(c) If the sureties on the bond are individual sureties, the bond shall be approved by the court and shall be for twice the amount required for a bond given by an authorized surety company.

(d) Section 2328 is applicable to the bond of the petitioner under this chapter.

SEC. 348.3. Section 10200 of the Public Contract Code is amended to read:

10200. A bidder shall not be relieved of the bid nor shall any change be made in the bid because of mistake, but the bidder may bring an action against the department in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount forfeited, without interest or costs. If the plaintiff fails to recover judgment, the plaintiff shall pay all costs incurred by the department in the suit, including a reasonable attorney's fee to be fixed by the court.

SEC. 348.4. Section 10221 of the Public Contract Code is amended to read:

10221. Every contract shall provide for the filing of separate performance and payment bonds by the contractor in the form of bonds executed by an admitted surety insurer and not deposits in lieu of bond, subject to the approval of the department.

SEC. 348.5. Section 10225 of the Public Contract Code is amended to read:

10225. No payment shall be made upon the contract to the contractor or any assignee of the contractor until any order by the director that a sufficient surety be substituted on the bond or that a new, additional, or supplemental bond be given, is satisfied. No cancellation of or withdrawal of a surety from a bond is effective unless approved by the director.

SEC. 349. Section 3205.5 of the Public Resources Code is amended to read:

3205.5. In lieu of the bond required by Sections 3204, 3205, and 3205.1, a deposit may, with the written approval of the supervisor, be given pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure, other than a deposit of money or bearer bonds or bearer notes.

SEC. 350. Section 3344 of the Public Resources Code is amended to read:

3344. (a) Whenever it appears that any person is violating or threatening to violate any provision of this article, or any rule, regulation or order of the supervisor, the supervisor may bring suit against the person in the superior court of any county where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. Upon the filing of the suit, summons issued to the person may be directed to the sheriff or his or her deputies. In the suit, the court has jurisdiction to grant to the supervisor such prohibitory and mandatory injunctions either preliminary or final as the facts may warrant.

(b) If the supervisor fails to bring suit to enjoin a violation or threatened violation of any provision of this article, or any rule, regulation or order of the supervisor within 10 days after receipt of written request to do so by any person who is or will be adversely affected by the violation, the person making the request may bring suit in the person's own behalf to restrain the violation or threatened violation in any court in which the supervisor might have brought suit. If in the suit, the court should hold that injunctive relief should be granted, then the supervisor shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the supervisor had at all times been the plaintiff.

(c) No civil action for damages shall lie against any person for the violation of this article or any rule, regulation or order of the supervisor, except against an owner of the working interest, and particularly no such suit or action shall lie against any lessor, royalty owner, contractor or purchaser of the oil and gas, and no such suit or action shall lie against an owner of the working interest, except suits or actions for damages occurring subsequent to the entry of an order or decision of the supervisor which result from a failure to comply with the order or decision.

(d) If the supervisor brings a suit or action pursuant to this article, no defendant or intervenor shall be permitted to cross-complain or otherwise bring an action in the same proceeding against any other person for damages or for any other purpose.

SEC. 351. Section 3728.5 of the Public Resources Code is amended to read:

3728.5. In lieu of the bond required by Sections 3723.5, 3725, 3725.5, and 3726, a deposit may, with the written approval of the supervisor, be given pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure, other than a deposit of money or bearer bonds or bearer notes.

SEC. 352. Section 4606 of the Public Resources Code is amended to read:

4606. If upon a hearing to show cause why a preliminary injunction should not be issued, or upon a hearing of any motion for a preliminary injunction, or if the court should find in any such action that any such defendant is violating, threatens to violate, or has

violated, any provision of this chapter or rules and regulations of the board, the court may not only order the discontinuance of any timber operations in which the violation has occurred, is threatening to occur, or is occurring, but may also enjoin any further timber operations by the defendant in this state until the violations complained of have been corrected or until satisfactory provisions have been approved by the court for the violations to be corrected at a specified date. Any defendant in such proceedings may enter into a written agreement with the department assuring that such defendant will resume operations in compliance with the provisions of this chapter or the rules and regulations of the board and correct the violations on such reasonable terms and conditions as the department may require. Upon approval by the court, any temporary restraining order, preliminary injunction, or permanent injunction may include or be amended to include an order that any defendant entering into such an agreement comply with the terms of the agreement as a condition for engaging in any timber operations enjoined by the temporary restraining order, preliminary injunction, or permanent injunction. The court may require a bond payable to the department in such amount as the court deems proper to insure correction of any such violation in accordance with the agreement or any other provisions required by the court. The court may make any other orders reasonable and necessary to carry out the intent of this article.

SEC. 353. Section 1074 of the Public Utilities Code is amended to read:

1074. Every common carrier subject to Section 1061 who engages subhaulers or leases equipment from employees shall file with the commission a bond, the amount of which shall be determined by the commission but which shall be not less than two thousand dollars ($2,000), executed by an admitted surety insurer, subject to the approval of the commission, which bond shall secure the payment of the claims of subhaulers and employee-lessors of the common carrier.

SEC. 354. Section 3575 of the Public Utilities Code is amended to read:

3575. Every highway carrier who engages subhaulers or leases equipment from employees shall file with the commission a bond, the amount of which shall be determined by the commission but which shall be not less than two thousand dollars ($2,000), executed by an admitted surety insurer, subject to the approval of the commission, which bond shall secure the payment of the claims of subhaulers and employee-lessors of the highway carrier.

SEC. 355. Section 4839 of the Public Utilities Code is repealed.

SEC. 356. Section 4840 of the Public Utilities Code is amended to read:

4840. No suit or action against the surety on any bond given in compliance with this chapter shall be brought later than one year from the accrual of the cause of action thereon.

SEC. 357. Section 6010 of the Public Utilities Code is amended to read:

6010. (a) The advertisement may also contain a statement that the successful bidder for any franchise or privilege struck off, sold, and awarded under this article shall file a bond running to the county, city and county, or city, approved by the governing body. The advertisement may require a bond executed by an admitted surety insurer. The bond shall be in a penal sum prescribed by the governing body and set forth in the advertisement for bids, and conditioned that the bidder shall well and truly observe, fulfill, and perform each term and condition of the franchise, and that in case of any breach of condition of the bond, the whole amount of the penal sum therein named shall be deemed to be liquidated damages.

(b) The bond if required shall be filed with the governing body within the time specified in the advertisement and if no time is specified within five days after the franchise is awarded. The franchise shall be granted by ordinance to the person, firm, or corporation to whom it has been struck off, sold or awarded. If the bond is not filed within the time required, the award of the franchise may be set aside at any time prior to the filing and, if set aside, any money paid for the franchise shall be forfeited, and if an ordinance has been enacted granting the franchise, the governing or legislative body may repeal the ordinance and the franchise shall, in the discretion of the governing or legislative body, be readvertised and again offered for sale in the same manner and under the same restrictions, as provided in this article.

SEC. 358. Article 3 (commencing with Section 6066) of Chapter 1 of Division 3 of the Public Utilities Code is repealed.

SEC. 359. Section 6301 of the Public Utilities Code is amended to read:

6301. (a) The grantee of a franchise under this chapter may be required to file a bond running to the municipality approved by the legislative body, in a penal sum prescribed by the legislative body and set forth in the resolution of intention to grant the franchise, conditioned that the grantee shall well and truly observe, fulfill, and perform each term and condition of the franchise, and that in case of any breach of condition of the bond the amount of the penal sum therein named shall be recoverable.

(b) The bond, if required by the legislative body, shall be filed with the legislative body within five days after the date of the granting of the franchise. If the bond is not so filed, or does not receive the approval of the legislative body, the franchise may be refused or forfeited and any money paid to the municipality in connection therewith shall be retained by the municipality.

SEC. 360. Section 16541 of the Public Utilities Code is amended to read:

16541. All contracts shall be made with the lowest responsible bidder, who shall give bonds for the faithful performance of the contract.

SEC. 361. Section 2954 of the Revenue and Taxation Code is amended to read:

2954. (a) An assessee may challenge a seizure of property made pursuant to Section 2953 by petitioning for a writ of prohibition or writ of mandate in the superior court alleging:

(1) That there are no grounds for the seizure;

(2) That the declaration of the tax collector is untrue or inaccurate; and

(3) That there are and will be sufficient funds to pay the taxes prior to the date such taxes become delinquent.

(b) As a condition of maintaining the special proceedings for a writ, the assessee shall file with the tax collector a bond sufficient to pay the taxes and all fees and charges actually incurred by the tax collector as a result of the seizure, and shall furnish proof of the bond with the court. Upon the filing of the bond, the tax collector shall release the property to the assessee.

SEC. 362. Section 2955 of the Revenue and Taxation Code is amended to read:

2955. If the assessee prevails in the special proceeding for a writ under Section 2954, the assessee is entitled to recover from the county all costs, including attorney's fees, incurred by virtue of the seizure and subsequent actions, and the tax collector shall bear the costs of seizure and any fees and expenses of keeping the seized property. If, however, subsequent to the date the taxes in question become delinquent, the taxes are not paid in full and it becomes necessary for the tax collector to seize property of the assessee in payment of the taxes or to commence an action against the assessee for recovery of the taxes, in addition to all taxes and delinquent penalties, the assessee shall reimburse the county for all costs incurred at the time of the original seizure and all other costs charged to the tax collector or the county as a result of the original seizure and any subsequent actions.

SEC. 363. Section 3006 of the Revenue and Taxation Code is amended to read:

3006. (a) The tax collector may commence an action for recovery of taxes on property on the unsecured roll prior to the date such taxes become delinquent if, in the tax collector's opinion, it is necessary to do so in order to insure payment of such taxes because of the financial condition of the assessee or for other appropriate reasons. The tax collector shall file a declaration under penalty of perjury, as part of the complaint, setting forth the grounds and necessity for the action prior to the delinquency date. The tax collector shall also be entitled, upon application, to an ex parte writ of attachment of so much of the assessee's property as is necessary to satisfy the taxes on the basis of the tax collector's declaration.

(b) An assessee named in an action under subdivision (a) may file with the court a bond sufficient to pay the taxes alleged due in the complaint and petition the court to release the attached property.

(c) If the court determines that the action and writ of attachment

prior to the delinquency date are unnecessary, the court shall require the county to pay all costs of suit, including attorney's fees, incurred by the assessee, and the sureties shall be released from liability on the bond. The court may, in its discretion, require payment of the taxes in question as a condition of releasing the sureties. In that case, however, the assessee shall be entitled to interest from the county at the rate of 7 percent per annum from the date the taxes are paid until the date the taxes would have become delinquent.

(d) In any case where an action by the tax collector under this section is dismissed and the assessee is not required by the court to pay the taxes as a condition of dismissal and subsequent to the delinquency date the taxes remain unpaid, the county shall be entitled to recover, in addition to the taxes and all penalties and costs accruing thereon, all costs ordered by the court to be paid by the county to the assessee in the first action and all costs incurred by the county in any subsequent actions of the county in collecting the taxes.

(e) In all actions and proceedings brought under this section, all courts in which the actions and proceedings are pending shall, upon the request of any party thereto, give the actions and proceedings precedence over all other civil actions and proceedings, except actions and proceedings to which special precedence is otherwise given by law, in the matter of setting them for hearing or trial, and in their hearing or trial, to the end that all the actions and proceedings shall be quickly heard and determined.

SEC. 364. Section 7390 of the Revenue and Taxation Code is amended to read:

7390. Every person desiring to become an aircraft jet fuel dealer shall first secure from the board an aircraft jet fuel dealer permit. Applications for permits shall be made to the board on forms prescribed by the board. Before issuing the permit the board may require the applicant to furnish the bond required under Chapter 4 (commencing with Section 7451).

SEC. 365. Section 7391 of the Revenue and Taxation Code is amended to read:

7391. Upon receipt of the application and after the deposit of such bond as the board may require, the board shall issue to the applicant an aircraft jet fuel dealer permit authorizing the applicant to become a dealer in aircraft jet fuel. The permit is valid until canceled, suspended or revoked.

SEC. 366. Section 7401 of the Revenue and Taxation Code is amended to read:

7401. (a) The provisions of this part requiring the payment of license taxes do not apply to any of the following:

(1) Natural gasoline distributed to a duly licensed distributor under such regulations as the board may prescribe.

(2) Motor vehicle fuel exported from this state by the distributor or delivered by the distributor to any vessel clearing from a port of this state for a port outside of this state and actually exported from

this state in the vessel.

(3) Motor vehicle fuel distributed, or delivered on the order of the owner, to a distributor who has furnished bond as prescribed by Sections 7486 and 7487 of not less than fifty thousand dollars ($50,000), nor more than five hundred thousand dollars ($500,000), and who has established to the satisfaction of the board that this bond, together with property to which the lien imposed by Section 7872 attaches, is sufficient security to assure payment of all license taxes as they may become due to the state from the distributor under this part.

(4) Motor vehicle fuel sold to the United States armed forces for use in ships or aircraft, or for use outside this state.

(5) Motor vehicle fuel distributed to any licensed distributor, or to any licensed broker who has furnished bond in the form and amount required of distributors under Article 1 (commencing with Section 7451) of Chapter 4, for sale to the United States armed forces for use in ships or aircraft or use outside this state. Notwithstanding any other provisions of this part, the receiving of motor vehicle fuel in this state from a licensed distributor and the sale and delivery of the fuel to the United States armed forces pursuant to this subdivision shall not constitute a broker a distributor under this part.

(b) Every distributor claiming an exemption shall report the exports, sales or distributions to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this state subject fully to the provisions of this part.

SEC. 366.3. Section 7486 of the Revenue and Taxation Code is amended to read:

7486. Before granting a license authorizing a person to engage in business as a distributor or broker, the board may require the person to file with the board, in such form as it prescribes, a bond or bonds duly executed by an admitted surety insurer, payable to the state, conditioned upon faithful performance of all the requirements of this part, and expressly providing for the payment of all license taxes, penalties, and other obligations of the person arising out of this part.

SEC. 366.5. Section 7488 of the Revenue and Taxation Code is repealed.

SEC. 366.7. Section 7489 of the Revenue and Taxation Code is repealed.

SEC. 367. Section 14178 of the Revenue and Taxation Code is repealed.

SEC. 368. Section 15937 of the Revenue and Taxation Code is repealed.

SEC. 369. Section 30141 of the Revenue and Taxation Code is amended to read:

30141. Every applicant for a license as a distributor shall file with the board, in such amount and in such form as the board prescribes, a bond or bonds executed by an admitted surety insurer, payable to the people of the State of California, conditioned upon the payment

of all taxes, penalties, and other obligations of the distributor arising under this part.

SEC. 370. Section 30745 of the Revenue and Taxation Code is repealed.

SEC. 371. Section 32102 of the Revenue and Taxation Code is amended to read:

32102. Every taxpayer shall file with the board, in such form as the board prescribes, a bond or bonds executed by an admitted surety insurer, payable to the people of the State of California, conditioned upon the payment of all taxes, penalties, and other obligations of the taxpayer arising under this part.

SEC. 372. Section 32105 of the Revenue and Taxation Code is repealed.

SEC. 373. Section 41117 of the Revenue and Taxation Code is amended to read:

41117. In the action a writ of attachment may issue, and no affidavit previous to the issuing of the attachment is required.

SEC. 374. Section 1052 of the Streets and Highways Code is amended to read:

1052. The petitioner shall accompany the petition with a bond, approved by the board of supervisors, in double the amount of the probable cost of the proceedings, including the market value for land taken and any severance damage resulting from the taking, and shall be conditioned that the petitioner will pay all costs of the proceedings, including any compensation which may be awarded to any landowner. The bond shall be further conditioned that the petitioner will pay to the person over whose land the private byroad is sought to be opened or altered, the necessary costs and disbursements in contesting the opening or alteration of the private byroad, in case the petition is not granted or the private byroad is finally not opened or altered.

SEC. 375. Section 1183 of the Streets and Highways Code is amended to read:

1188. The board shall cause the highway work, provided for in this article, to be done in accordance with the provisions of Sections 1071 to 1075, inclusive, except that the notice calling for bids shall be published in a newspaper published in the division if there is such a newspaper. The successful bidder shall give a bond in such sum as the board requires, conditioned on the faithful performance of the contract, and on the payment of all labor employed and material used in the work.

SEC. 376. Section 5242 of the Streets and Highways Code is amended to read:

5242. All proposals or bids offered shall be accompanied by cash, a cashier's check or a certified check payable to the city, for an amount which shall not be less than 10 percent of the aggregate of the proposal, or by a bond for that amount and so payable, to the satisfaction and approval of the superintendent of streets.

SEC. 377. Section 5254 of the Streets and Highways Code is

amended to read:

5254. All contractors, contracting owners included, shall, at the time of executing any contract for the work, execute a bond to the satisfaction and approval of the superintendent of streets and payable to the city, in a sum not less than 25 percent of the amount of the contract, conditioned upon the faithful performance of the contract.

SEC. 378. Section 5291 of the Streets and Highways Code is amended to read:

5291. The bond shall provide that the contractor or subcontractor shall pay for any materials, provisions, provender, or other supplies or use of implements or machinery used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind.

SEC. 379. Section 10502 of the Streets and Highways Code is amended to read:

10502. (a) Each bid shall be accompanied by cash, a cashier's check or a certified check, amounting to 10 percent of the bid, payable to the order of the clerk of the legislative body, or by a bond for that amount and so payable to the satisfaction and approval of the superintendent of streets. The amount so posted shall be forfeited to the municipality if the bidder does not, within 15 days after written notice that the contract has been awarded to the bidder, enter into a contract with the municipality for the work.

(b) The faithful performance of the contract shall be secured by an undertaking in such penal sum as the legislative body requires, but not less than 25 percent of the contract price, satisfactory to the legislative body. When the proceedings include the acquisition or construction of works, appliances, or improvements to be owned, managed or controlled by a public agency other than the municipality making the acquisitions or ordering the work done, the legislative body of the municipality may require that the undertaking also inure to the benefit of the public agency to the extent of its interest in the entire project. The contractor shall also furnish a labor and material bond as required by law in a sum not less than 50 percent of the contract price.

SEC. 380. Section 26022 of the Streets and Highways Code is amended to read:

26022. At the time of the filing of the petition for the formation of the district the petitioners shall file a bond with the board of supervisors for not more than three hundred dollars ($300), approved by the board, upon the condition that the petitioners will pay the expense and cost of the election in an amount not exceeding the amount of the bond if the proposition to organize the district is defeated.

SEC. 381. Section 30158 of the Streets and Highways Code is amended to read:

30158. The department may issue permits for the use of any toll bridge or other toll highway crossing acquired or constructed

pursuant to this chapter on a credit basis. Except in the case of municipal or other public corporations, governmental agencies, or common carriers having contracts directly with the authority for operation of the transportation facilities of the bridge or crossing, the holder of a permit to use any toll bridge or other toll highway crossing on a credit basis shall furnish to and maintain in force with the department a bond executed by an admitted surety insurer, approved by the department, in an amount equal to twice the department's estimate of the toll charges to be incurred under the permit during one month.

SEC. 382. Section 30159 of the Streets and Highways Code is amended to read:

30159. The department may revoke any permit granted for failure of the holder to comply with its terms.

SEC. 383. Section 30867 of the Streets and Highways Code is amended to read:

30867. The owner or keeper of the toll bridge or ferry shall furnish a bond in the sum fixed by the board of supervisors and conditioned that the toll bridge or toll ferry will be kept in good repair and condition, and that the keeper will faithfully comply with the laws of the state and all legal orders of the board of supervisors regulating it, and pay all damages recovered against the owner or keeper by any person injured or damaged by reason of delay at or defect in the bridge or ferry, or in any manner resulting from non-compliance with the laws or lawful orders regulating it. The bond shall be approved by the chairman and filed with the clerk of the board of supervisors.

SEC. 384. Section 31127 of the Streets and Highways Code is amended to read:

31127. The authority may issue permits for the use of the toll tunnel on a credit basis. The holder of such a permit shall furnish to and maintain in force with the authority a bond executed by an admitted surety insurer, in an amount equal to twice the authority's estimate of the toll charges to be incurred under such permit during one month.

SEC. 385. Section 31128 of the Streets and Highways Code is amended to read:

31128. The authority may revoke any permit granted for failure of the holder to comply with its terms.

SEC. 386. Section 1815 of the Vehicle Code is amended to read:

1815. The bond shall be to the satisfaction of the director and shall obligate the principal and sureties to compensate the officers of the department and any other person who may suffer loss or damage by reason of any failure or neglect of the principal, the principal's agents, or employees to preserve carefully and surrender any records examined in the department and by reason of any act of the principal, the principal's agents, or employees in respect to the loss, alteration, substitution, or mutilation of any records of the department.

SEC. 387. Section 4158 of the Vehicle Code is amended to read:

4158. In the event the vehicle is no longer registered in this state and the currently valid certificate of ownership is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or prior thereto.

SEC. 388. Section 9801 of the Vehicle Code is amended to read:

9801. (a) The department shall collect the fee, or any penalty, or both, plus costs, not exceeding two hundred dollars ($200), but at least equal to the cost, incurred by the department arising from the preparation for the seizure of the vehicle by due notice or by seizure of the vehicle from the person or persons in possession thereof, if any, and by the sale of such vehicle if fees and costs are not paid upon notice to pay all fees due and herein provided for except as otherwise provided.

(b) When a lien for the fee, or any penalty, or both, exists against more than one vehicle in possession of the same person or persons, the department may seize and sell a sufficient number of the vehicles to pay the fees, or penalties, or both, plus costs, to equal at least the cost of conducting the seizure and sale proceedings but not to exceed two hundred dollars ($200), for each vehicle incident to such seizure, against all such vehicles.

(c) When the lien for the fee, or any penalty, or both, exists on a vehicle sold by a dealer, the department may withhold seizure and sale of the vehicle pending notification of the selling dealer and sureties of the dealer's liability under Section 4456 and pursuant to the bond provided in Section 11710. The department may proceed with seizure and sale of the vehicle if the fee and any penalty is not paid within 30 days after due and proper notice to the dealer and sureties.

(d) The Department of the California Highway Patrol shall assist with the seizure and impounding of the vehicle. Any municipality or county law enforcement agency may assist with the seizure and impounding of the vehicle. No vehicle may be seized or impounded pursuant to the provisions of this section unless there are outstanding registration or transfer fees due.

SEC. 389. Section 9924 of the Vehicle Code is amended to read:

9924. In the event the vessel is no longer registered in this state and the currently valid certificate of ownership is surrendered to the department or the vessel has been destroyed or lost, the bond or undertaking shall be returned and surrendered after three years.

SEC. 390. Section 11102 of the Vehicle Code is amended to read:

11102. (a) A driving school owner shall:

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially; or has not committed any act which, if done as a licensed driving school owner, would be grounds for the suspension or revocation of the license.

(2) Pay to the department an application fee of fifty dollars ($50)

and upon original application, in addition to the fifty dollars ($50), an initial investigation and inspection fee of fifty dollars ($50).

(3) Maintain an established place of business open to the public. No office or place of business shall be situated within 500 feet of any building used by the department as an office, unless the owner was established at such location on or before January 1, 1976.

(4) Have the proper equipment necessary to giving instruction in the operation of the class of vehicles for which the course is designed.

(5) Procure and file with the department a bond in the amount of two thousand dollars ($2,000) executed by an admitted surety insurer and conditioned that the applicant shall not practice any fraud or make any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant.

(6) Meet the requirements of Section 11102.5. If the owner is not the operator of the driving school, the owner shall designate an operator who shall meet the requirements of Section 11102.5.

(7) File with the department a good and sufficient instrument in writing in which the owner shall appoint the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of the violation of the applicant of any of the terms and provisions of this code or any condition of the driving school owner's bond. The applicant shall stipulate and agree in such appointment that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence, in such a case which is served upon the director, or in the event of the director's absence from the office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree in writing that the agency created by the appointment shall continue for and during the period covered by the license and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond. The instrument appointing the director as agent for the applicant for service of process shall be acknowledged by the applicant before a notary public. In any case wherein the licensee is served with process by service thereof upon the director, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. The service on the director shall be a sufficient service on the licensee; provided, that a notice of the service and a copy of the summons and complaint shall be forthwith sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall be mailed by the plaintiff or his attorney to the surety of the applicant's bond at the address of the

surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process so served upon him or her which record shall show the day and hour of service and shall retain the summons and complaint so served on the licensee on file. Where the licensee is served with process by service thereof upon the director, the licensee shall be allowed 30 days from and after the service thereof within which to answer any complaint or other pleading which may be filed in the cause; and provided, further, that for purposes of venue, where the licensee is served with process by service thereof upon the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her established place of business.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application and fee shall be required.

SEC. 391. Section 11102.1 of the Vehicle Code is amended to read:

11102.1. If a deposit is given instead of the bond required by Section 11102:

(a) The director may order the deposit returned at the expiration of three years from the date a driving school licensee has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

SEC. 392. Section 11110 of the Vehicle Code is amended to read:

11110. The department may cancel, suspend, revoke, or refuse to renew any license under the provisions of this chapter:

(a) Whenever the department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this chapter.

(b) Whenever the licensee fails to keep the records required by this chapter.

(c) Whenever the licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license.

(d) Whenever the holder fails to comply with any provisions of this chapter or any of the regulations or requirements of the department made pursuant thereto.

(e) Whenever the licensee represents himself or herself as an agent or employee of the department or uses advertising designed to create the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or whenever the licensee advertises in any manner or means whatever any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(f) Whenever the licensee or any employee or agent of such licensee solicits driver training or instruction in an office of the department or within 200 feet of any such office.

(g) Whenever the licensee is convicted of violating Section 14606, 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or Section 192 of the Penal Code. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section.

(h) Whenever the licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. The department, in proceeding pursuant to this subdivision, shall conform its procedures to the provisions of Division 1.5 (commencing with Section 475) of the Business and Professions Code. Whenever disability or unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation, the referee, hearing officer, or board shall make a specific finding as to the manner in which the action or conduct manifests disability or unfitness, which finding shall be incorporated in the order suspending or revoking the license.

(i) Whenever contrary to provisions of this code or of regulations established by the department, the licensee teaches or permits a student to be taught the specific tests administered by the department through use of the department's forms or testing facilities.

(j) Whenever the licensee conducts driver training, or permits driver training by any employee, in an unsafe manner or contrary to safe driving practices.

(k) Whenever the driving school owner or driving school operator teaches or permits an employee to teach driving instruction without a valid driving instructor's license.

(*l*) Whenever a driving school owner does not have in effect a bond as provided in Section 11102.

SEC. 393. Section 11301.3 of the Vehicle Code is repealed.

SEC. 394. Section 11301.5 of the Vehicle Code is amended to read:

11301.5. If a deposit is given instead of the bond required by Section 11301:

(a) The Director of Motor Vehicles may order the refund of the deposit three years from the date a vehicle verifier has ceased to be licensed, if the director is satisfied that there are no outstanding

claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years from the date a vehicle verifier has ceased to be licensed if there is evidence satisfactory to the court that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

SEC. 395. Section 11612 of the Vehicle Code is amended to read:

11612. (a) Before any lessor-retailer license shall be issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a bond meeting the same requirements as specified for a vehicle dealer's license in Sections 11710 and 11710.2.

(b) Any cause of action or claim specified in Section 11711 against a vehicle dealer's bond shall also be a cause of action or claim against a lessor-retailer's bond.

SEC. 396. Section 11614 of the Vehicle Code is amended to read:

11614. It shall be unlawful and a violation of this code for a lessor-retailer licensed under this chapter in connection with any activity for which this license is required:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by oral representation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or sell service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale in any manner, any vehicle not actually for sale at the premises of the lessor-retailer or available within a reasonable time to lessor-retailer at the time of the advertisement or offer.

(c) To fail within 48 hours in writing to give notification to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(e) To advertise the total price of a vehicle without including all costs to the purchaser at the time of delivery at the lessor-retailer's premises, except sales tax, vehicle registration fees and finance charges.

(f) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on the lessor-retailer's behalf or at the lessor-retailer's place of business, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(g) To refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, and finance charges, while the vehicle remains unsold or unleased unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(h) To engage in the business for which licensee is licensed without having in force and effect a bond as provided in Section 11612.

(i) To engage in the business for which the lessor-retailer is licensed without at all times maintaining a principal place of business and a branch office location or locations as required by this chapter.

(j) To permit the use of the lessor-retailer license, supplies or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the lessor-retailer license, supplies or books to operate a branch office location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the vehicles sold by, or the business of, or branch office location used by, the person, or has no such interest or investment other than commissions, compensations, fees or any other thing of value received for the use of the lessor-retailer license, supplies or books to engage in the sale of vehicles.

(k) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

SEC. 397. Section 11710 of the Vehicle Code is amended to read:

11710. (a) Before any dealer's license shall be issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a bond in the amount of five thousand dollars ($5,000) executed by an admitted surety insurer, approved as to form by the Attorney General, and conditioned that the applicant shall not practice any fraud or make any fraudulent representation which will cause a monetary loss to a purchaser, seller, financing agency, or governmental agency.

(b) Liability under the bond is to remain at five thousand dollars ($5,000). If the amount of liability under the bond is decreased or there is outstanding a final court judgment for which the dealer and sureties are liable, the dealer's license shall be automatically suspended. In order to reinstate the license and special plates, the licensee shall either file an additional bond or restore the bond on file to the original amount, or shall terminate the outstanding judgment for which the dealer and sureties are liable.

(c) A dealer's license, or renewal of the license, shall not be issued to any applicant therefor, unless and until the applicant files with the department a good and sufficient instrument in writing in which the applicant appoints the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association or corporation, by reason of the violation of the applicant of any of the terms and provisions of this code or any condition of the dealer's bond. The applicant shall stipulate and agree in the appointment that any process directed to the applicant, when personal service of process upon the applicant cannot be made in this state after due diligence, in such a case which is served upon the director, or in the event of the director's absence from the office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree in writing that the agency created by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond. The instrument appointing the director as the agent for the applicant for service of process shall be acknowledged by the applicant before a notary public. In any case where the licensee is served with process by service upon the director, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. Service on the director shall be a sufficient service on the licensee; provided, a notice of service and a copy of the summons and complaint shall be forthwith sent by registered mail by the plaintiff or the plaintiff's attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or the plaintiff's attorney to the surety on the applicant's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process so served upon the director which record shall show the day and hour of service and shall retain the summons and complaint so served on file. Where the licensee is served with process by service upon the director, the licensee shall have and be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause; and provided further, that for purposes of venue, where the licensee is served with process by service upon the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had an established place of business.

SEC. 398. Section 11710.1 of the Vehicle Code is repealed.

SEC. 399. Section 11710.2 of the Vehicle Code is amended to read:

11710.2. If a deposit is given instead of the bond required by Section 1710:

(a) The Director of Motor Vehicles may order the deposit returned at the expiration of three years from the date an applicant for a dealer's license who has operated a business of selling vehicles under a temporary permit has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

SEC. 400. Section 11713 of the Vehicle Code is amended to read:

11713. It shall be unlawful and a violation of this code for the holder of any license issued under this article:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer from the manufacturer or distributor of the vehicle at the time of the advertisement or offer; provided however, that this subdivision does not apply to advertising or offering for sale or exchange any used mobilehome, as defined by Section 18008 of the Health and Safety Code, or used commercial coach, as defined by Section 18012 of the Health and Safety Code, other than a recreational vehicle, as defined by Section 18010.5 of the Health and Safety Code, where such advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome or commercial coach and the owner of the mobilehome park, and which mobilehome or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, as defined in Section 18214 of the Health and Safety Code, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized

or its continued presence and such use would be authorized, for a total and uninterrupted period of at least one year.

(c) To fail within 48 hours in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise or represent a vehicle as a new vehicle if the vehicle falls within the purview of Section 665.

(e) To engage in the business for which licensee is licensed without having in force and effect a bond as provided in Section 11710.

(f) For any licensed dealer to engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) To include as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which amount is not due to the state unless, prior to the sale, such amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of such fees. However, a dealer may collect, from the second purchaser of a vehicle, a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) To employ any person as a salesman who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as provided in Section 11812.

(i) To deliver, following sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000).

(j) To use or permit the use of the special plates assigned to the license holder for any purpose other than permitted by Section 11715.

(k) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on behalf of or at the place of business of the license holder, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(*l*) To participate in the sale of a vehicle reported to the Department of Motor Vehicles under the provisions of Section 5900 or 5901 without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) To permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the dealer's license, supplies, or books

to operate a branch location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the vehicles sold by, or the business of, or branch location used by, the person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of vehicles.

(n) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(o) To fail to deliver or honor the terms and conditions of any warranty as set forth in Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(p) To violate any of the terms or provisions of Chapter 6 (commencing with Section 11950) of Division 5.

(q) To violate any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of, or Section 18613 of, the Health and Safety Code or any rules and regulations issued pursuant thereto.

SEC. 401. Section 16434 of the Vehicle Code is amended to read:

16434. Proof of ability to respond in damages may be given by a bond approved by a judge of a court of record. The bond shall be conditioned for the payment of the amount specified in Section 16430, and shall provide for the entry of judgment on motion of the state in favor of any holder of any final judgment on account of damages to property over five hundred dollars ($500) in amount, or injury to any person caused by the operation of the person's motor vehicle.

SEC. 402. Section 38055 of the Vehicle Code is amended to read:

38055. In the event the vehicle is no longer identified in this state and the currently valid certificate of ownership is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or prior thereto.

SEC. 403. Section 2020 of the Water Code is amended to read:

2020. (a) At any time after filing of the report by the board as provided in Section 2016 the board, if it appears that underground water is being pumped in an amount which, if not restricted, would destroy or irreparably injure the waters of the basin due to ocean water intrusion before final judgment can be had, may, on notice, pursuant to the provisions of Section 527 of the Code of Civil Procedure, apply to the court for a preliminary injunction, restricting the pumping of water of the basin so as to avoid irreparable injury to, or destruction of, the waters of the basin, and the court may issue the injunction, subject to the provisions of Section 2021, equitably restricting and apportioning the reduction in the pumping of water.

(b) The provisions of this section apply only to actions to determine rights to waters of underground basins located in the arid, southern coastal area defined by the exterior boundaries of the Counties of Santa Barbara, Ventura, Los Angeles, Orange, and San Diego.

SEC. 404. Section 22308 of the Water Code is amended to read:

22308. Any person to whom a contract may be awarded pursuant to this article shall provide a bond approved by the board, payable to the district for at least 25 percent of the estimated contract price, conditioned upon the faithful performance of the contract.

SEC. 405. Section 43308 of the Water Code is amended to read:

43308. Any person to whom a contract is awarded shall enter into a bond, to be approved by the board, payable to the district for its use, for 25 percent of the amount of the contract price, conditioned for the full and faithful performance of the contract. The work shall be done under the direction and to the satisfaction of, and be approved by, the board.

SEC. 406. Section 50658 of the Water Code is amended to read:

50658. No warrant for the creation or replenishment of a revolving fund shall be paid by the county treasurer unless a bond in double the amount of the fund, signed by the members of the board and conditioned as security for the safety and proper disbursements of the fund, approved by the board of supervisors, has been filed with the county treasurer.

SEC. 407. Section 50659 of the Water Code is amended to read:

50659. A revolving fund shall be disbursed only by checks or drafts, signed by at least two members of the board, or by some person who is authorized to do so by unanimous vote of the board. No person shall be so authorized until the person has filed with the board a bond in the amount required by the board and in no event less than double the amount of the fund. The bond shall be conditioned as security for the safety and proper disbursements of the fund.

SEC. 408. Section 60339 of the Water Code is amended to read:

60339. (a) The superior court of the county in which the major portion of the district lies may issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the person named therein as defendant is the operator of a water-producing facility which has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment. The temporary restraining order shall be returnable to the court on or before ten (10) days after its issuance.

(b) The court may issue and grant an injunction restraining and prohibiting the named defendant from the operation of any water-producing facility when it is established by the preponderance of the evidence at a hearing that the defendant has failed to register the water-producing facility with the district or that the defendant is delinquent in the payment of a replenishment assessment. The court may provide that the injunction so made and issued shall be stayed for a period not to exceed 10 days to permit the defendant to register the water-producing facility or to pay the delinquent replenishment assessment.

(c) Service of process shall be made by posting a copy of the

summons and complaint upon the water-producing facility or the parcel of land upon which the water-producing facility is located and by personal service of summons and complaint upon the named defendant.

(d) The right to proceed for injunctive relief as provided in this section shall be in addition to any other right which may be provided elsewhere in this act or which may be otherwise allowed by law. The procedure provided in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure regarding injunctions shall be followed except insofar as it may be otherwise provided in this section.

SEC. 409. Section 70176 of the Water Code is amended to read:

70176. Any person to whom a contract may be awarded pursuant to this chapter, shall provide a bond approved by the board, payable to the district for at least 50 percent of the estimated contract price, conditioned upon the faithful performance of the contract.

SEC. 410. Section 71689.3 of the Water Code is amended to read:

71689.3. (a) The superior court of the principal county may issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the person named therein as defendant is the operator of a water-producing facility which has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment. The temporary restraining order shall be returnable to the court on or before 10 days after its issuance.

(b) The court may issue and grant an injunction restraining and prohibiting the named defendant from the operation of any water-producing facility when it is established by the preponderance of the evidence at a hearing that the defendant has failed to register the water-producing facility with the district or that the defendant is delinquent in the payment of a replenishment assessment. The court may provide that the injunction so made and issued shall be stayed for a period not to exceed 10 days to permit the defendant to register the water-producing facility or to pay the delinquent replenishment assessment.

(c) Service of process shall be made by posting a copy of the summons and complaint upon the water-producing facility or the parcel of land upon which the water-producing facility is located and by personal service of summons and complaint upon the named defendant.

(d) The right to proceed for injunctive relief as provided in this section shall be in addition to any other right which may be provided elsewhere in this act or which may be otherwise allowed by law. The procedure provided in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure regarding injunctions shall be followed except insofar as it may be otherwise provided in this section.

SEC. 411. Section 75632 of the Water Code is amended to read:

75632. The right to proceed for injunctive relief granted by this

article is an additional right to those which may be provided elsewhere in this division or otherwise allowed by law. The procedure provided in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, regarding injunctions, shall be followed except insofar as it is otherwise provided in this article.

SEC. 412. Section 75633 of the Water Code is amended to read:

75633. The district may bring a suit in any court having jurisdiction against any operator of a water-producing facility within the district for the collection of any delinquent groundwater charge. The court may, in addition to allowing recovery of costs to the district as allowed by law, fix and allow as part of the judgment interest and penalties as provided in Sections 75615 and 75616.

SEC. 413. Section 75902 of the Water Code is amended to read:

75902. Before calling the election, the board may require an undertaking from the petitioners for the inclusion of the land, conditioned that the petitioners or the sureties will pay all the costs of holding the election in case the inclusion is denied.

SEC. 414. If a bond or undertaking is given before January 1, 1983:

(a) The bond or undertaking remains in effect notwithstanding the repeal or amendment by this act of all or part of the statute pursuant to which the bond or undertaking is given.

(b) Except to the extent provided in Section 995.020 of the Code of Civil Procedure, the law governing the bond or undertaking is the law applicable to the bond or undertaking immediately before January 1, 1983, and for this purpose the law is continued in effect as it then existed.

SEC. 415. This act shall become effective only if Assembly Bill No. 2751 is chaptered and becomes effective January 1, 1983, and in such case this act shall become effective on January 1, 1983, the same as Assembly Bill No. 2751.

SEC. 416. Any section of any act enacted by the Legislature during the 1982 portion of the 1981–82 Regular Session, which takes effect on or before January 1, 1983, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 518

An act to amend Sections 66428, 66445, 66452.6, 66474, 66474.60, and 66474.61 of the Government Code, relating to subdivisions.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 66428 of the Government Code is amended to read:

66428. Local ordinances may require a tentative map where a parcel map is required by this chapter. A parcel map shall be required for subdivisions as to which a final or parcel map is not otherwise required by this chapter, unless the preparation of such parcel map is waived by local ordinance as provided in this section. A parcel map shall not be required for: (a) subdivisions of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing), or (b) land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map.

A local agency shall, by ordinance, provide a procedure for waiving the requirement for a parcel map, imposed by this division, including the requirements for a parcel map imposed by Section 66426. The procedure may include provisions for waiving the requirement for a tentative and final map for the construction of a condominium project on a single parcel. The ordinance shall require a finding by the legislative body or advisory agency, that the proposed division of land complies with such requirements as may have been established by this division or local ordinance enacted pursuant thereto as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this division or local ordinance enacted pursuant thereto. In any case, where the requirement for a parcel map is waived by local ordinance pursuant to provisions of this section, a tentative map may be required by local ordinance.

SEC. 2. Section 66445 of the Government Code is amended to read:

66445. The parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely

blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

(e) The map shall show the location of each parcel and its relation to surrounding surveys. The location of a designated remainder parcel shall be indicated but need not be indicated as a matter of survey but only by deed reference to the existing record boundaries of such remainder if such remainder has a gross area of five acres or more.

(f) Subject to the provisions of Section 66436, a certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

With respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required, the certificate shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" shall mean fee title of record unless a leasehold interest is to be divided, in which case "record title ownership" shall mean ownership of record of such leasehold interest; "record title ownership" does not include ownership of mineral rights or other subsurface interests which have been severed from ownership of the surface.

(g) It shall also satisfy any additional map requirements of local ordinances consistent with this division.

Notwithstanding any other provision of this article, local agencies may require that those certificates and acknowledgments required pursuant to this subdivision and subdivision (f) be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(h) Whenever a certificate or acknowledgment is made by separate instrument, there shall appear on the final map a reference to the separately recorded document. This reference shall be completed by the county recorder pursuant to Section 66468.1.

(i) The parcel map shall contain a certificate by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be set in such positions on or before a

specified date. The certificate shall also state that the monuments are, or will be, sufficient to enable the survey to be retraced.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after such additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a) shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map if a stay of the time period is approved by the local agency pursuant to this section. Within 10 days of the service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied

the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map.

SEC. 4. Section 66474 of the Government Code is amended to read:

66474. A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

SEC. 5. Section 66474.60 of the Government Code is amended to read:

66474.60. (a) In cities having a population of more than 2,800,000, the design, improvement and survey data of subdivisions and the form and content of tentative and final maps thereof, and the procedure to be followed in securing official approval are governed by the provisions of this chapter and by the additional provisions of local ordinances dealing with subdivisions, the enactment of which is required by this chapter.

(b) Local ordinances may provide a proper and reasonable fee to be collected from the subdivider for the examination of tentative and

final maps.

SEC. 6. Section 66474.61 of the Government Code is amended to read:

66474.61. In cities having a population of more than 2,800,000, the advisory agency, appeal board or legislative body shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the legislative body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.

This subdivision shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

CHAPTER 519

An act to amend Sections 3, 5, and 8 of Chapter 833 of the Statutes of 1980, relating to the Tahoe region, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 13, 1982 Filed with Secretary of State August 15, 1982]

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

SECTION 1. Section 3 of Chapter 833 of the Statutes of 1980 is amended to read:

Sec. 3. (a) It is the intent of the Legislature to create the Tahoe Area Land Acquisition Commission to study all aspects of a state land

purchase program for the Lake Tahoe region and to report thereon to the Legislature and the Governor, together with recommendations thereon, in accordance with the provisions of this act.

(b) Subdivision (a) of this section and Sections 4 to 11, inclusive, of this act shall not be implemented and no funds shall be encumbered thereunder or therefor unless Senate Bill No. 12 is enacted into law during the second year of the 1981–82 Regular Session of the Legislature and the voters of the State of California approve the issuance of state general obligation bonds as provided therein in conjunction with an election to be held in 1982.

SEC. 2. Section 5 of Chapter 833 of the Statutes of 1980 is amended to read:

Sec. 5. The Tahoe Area Land Acquisition Commission shall study and make recommendations concerning the use of funds which are or may become available to the state for the purpose of purchasing land to protect the resources of the Lake Tahoe region, including, but not limited to, funds that may become available pursuant to the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950) of the Government Code) as proposed by Senate Bill No. 12 of the 1981–82 Regular Session.

SEC. 3. Section 8 of Chapter 833 of the Statutes of 1980 is amended to read:

Sec. 8. The Tahoe Area Land Acquisition Commission shall report to the Legislature as follows:

(a) By March 1, 1983, on the questions posed in subdivisions (a), (b), (c), and (d) of Section 6 of this act;

(b) By June 30, 1983, on the remaining questions posed in subdivisions (e), (f), (g), (h), (i), and (j) of Section 6 of this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that changes made by this act in the operation and implementation of the Tahoe Area Land Acquisition Commission and the dates by which the commission must report to the Legislature may be extended at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 520

An act to amend Section 1183 of the Civil Code, to amend Sections 162, 328, 333, 441, 630, 680, 681, 1000, 1025.5, and 1200.5 of, and to add Section 845 to, the Probate Code, relating to administration of estates.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982]

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

SECTION 1. Section 162 of the Probate Code is amended to read:

162. General pecuniary legacies, including general pecuniary legacies in trust, if not paid prior to the first anniversary of the testator's death, bear interest thereafter at the rate of interest upon a judgment rendered in any court of this state pursuant to Article XV of the California Constitution. Annuities commence at the testator's death and are due at the end of the annual, monthly or other specified period. Whenever an annuitant, legatee of a legacy for maintenance or beneficiary of a trust may be entitled to periodic payments or trust income commencing at the testator's death, he shall be entitled to interest on the amount of any unpaid accumulations of such payments or income held by the executor or administrator on each anniversary of the decedent's death, computed from the date of such anniversary at the rate of interest upon a judgment rendered in any court of this state pursuant to Article XV of the California Constitution.

SEC. 2. Section 328 of the Probate Code is amended to read:

328. At least 10 days before the hearing, notice of the hearing must be personally served upon each heir of the testator and each devisee and legatee named in the will and each person named as executor who is not petitioning, or mailed, postage prepaid, from a post office within this state, addressed to each such person at his or her respective place of residence or mailing address, if known to the petitioner, if not, at the county seat of the county where the proceedings are pending. This notice shall also advise the person receiving the notice that the person may serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the court with proof of service, a written request stating that the person desires special notice of the filing of an inventory and appraisement of estate assets or of the petitions or accounts mentioned in Sections 1200 and 1200.5.

Whenever the instrument offered for probate involves or may involve a testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state, or involves or may involve a bequest or devise for a charitable purpose without an identified legatee, devisee, or beneficiary, notice of the hearing on the petition for probate accompanied by a copy of the petition and the will, must be personally served upon the Attorney General or mailed, postage prepaid from a post office within this state, addressed to him or her at the office of the Attorney General at Sacramento, California.

As used in this section "post office" includes mailbox, subpost office, substation and mail chute or other like facility regularly maintained by the government of the United States.

SEC. 3. Section 333 of the Probate Code is amended to read:

333. (a) Publication of notice pursuant to this section shall be for at least 10 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting such publication dates, are sufficient. Notice shall be published in a newspaper of general circulation in the city where the decedent resided at time of death, or where the decedent's property is located if the court has jurisdiction over the estate pursuant to subdivision (3) of Section 301. If there is no such newspaper, the decedent did not reside in a city, or the property is not located in a city, then notice shall be published in a newspaper of general circulation in the county which is circulated within the community in which the decedent resided or the property is located. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within such community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) Whether published or posted, the caption of such notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

"NOTICE OF DEATH OF

_____

AND OF PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____ _____ on

(Address)

_____ at _____ .

(Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court or present it to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Section 700 of the Probate Code of California. The time for filing claims will not

expire prior to four months from the date of the hearing noticed above.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the court with proof of service, a written request stating that you desire special notice of the filing of an inventory and appraisement of estate assets or of the petitions or accounts mentioned in Section 1200 and 1200.5 of the California Probate Code.

_____

(Name and address of petitioner, or his or her attorney)"

(c) No petition filed pursuant to Section 326 or 440 may be heard by the court unless an affidavit showing due publication of notice has been filed with the clerk upon completion of the publication. Such affidavit shall contain a copy of the notice, and state the date of its first publication.

(d) When, however, notice has been previously published and an affidavit showing due publication of notice, containing a copy of the notice, and stating the date of its first publication, has been filed with the clerk upon completion of the publication, then, whether published or posted, the caption of any subsequent notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

"NOTICE OF

PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____ on _____ at _____ .

(Address) (Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may serve upon the executor or administrator, or upon the attorney for the executor or administrator, a written request stating that you desire special notice of the filing of an inventory and appraisement of estate assets or of the petitions or accounts mentioned in Sections 1200 and 1200.5 of the California Probate Code.

(Name and address of petitioner, or his or her attorney)"

SEC. 4. Section 441 of the Probate Code is amended to read:

441. The clerk shall set the petition for hearing by the court and cause notice thereof to be published pursuant to Section 333. The clerk shall also cause notice of the hearing to be mailed, postage prepaid, to each heir of the decedent named in the petition at least 10 days before the hearing, addressed to each heir at the heir's residence or mailing address as set forth in the petition, otherwise at the county seat of the county where the proceedings are pending. Such mailed notice shall also advise the person receiving such notice that the person may serve upon the executor or administrator, or upon the attorney for the executor or administrator, and file with the court with proof of service, a written request stating that the person desires special notice of the filing of an inventory and appraisement of estate assets or of the petitions or accounts mentioned in Sections 1200 and 1200.5.

SEC. 5. Section 630 of the Probate Code is amended to read:

630. When a decedent leaves no real property, nor interest therein nor lien thereon, in this state, and the total value of the decedent's property in this state, excluding any motor vehicle, or mobilehome or commercial coach registered under the provisions of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, of which the decedent is the owner or legal owner, over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding five thousand dollars ($5,000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed thirty thousand dollars ($30,000), the surviving spouse, the children, lawful issue of deceased children, a parent, brothers or sisters of the decedent, the lawful issue of a deceased brother or sister, or the guardian or conservator of the estate of any person bearing such relationship to the decedent, or the trustee named under a trust agreement executed by the decedent during his lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or the sole beneficiary, or all of the beneficiaries under the last will and testament of the decedent, regardless of whether or not any

beneficiary is related to the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as registrar or transfer agent of such evidences of interest, indebtedness or right, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such money or property, or to have such evidences transferred.

SEC. 6. Section 680 of the Probate Code is amended to read:

680. (a) The surviving spouse, minor children, and adult children who are physically or mentally incapacitated from earning a living and were actually dependent in whole or in part upon the decedent for support are entitled to such reasonable allowance out of the estate as shall be necessary for their maintenance according to their circumstances, during the progress of the settlement of the estate.

(b) Other adult children who were actually dependent in whole or in part upon the decedent for support may be given such reasonable allowance out of the estate as the court in its discretion determines is necessary for their maintenance according to their circumstances during the progress of the settlement of the estate.

(c) In case of an insolvent estate, a family allowance must not continue longer than one year after granting letters. Such allowance must be paid in preference to all other charges, except funeral charges, expenses of the last illness and expenses of administration, and may, in the discretion of the court or judge granting it, take effect from the death of the decedent.

SEC. 7. Section 681 of the Probate Code is amended to read:

681. (a) The allowance provided for in subdivision (a) of Section 680 may be granted before the inventory is filed, either by the court or a judge thereof; in which case it shall continue until modified by the court. After the inventory is filed, the court may grant the allowance, or may modify any allowance made before the filing of the inventory, upon the petition of any person interested and a hearing, after notice is given by the petitioner for the period and in the manner required by Section 1200.5.

(b) The allowance provided for in subdivision (b) of Section 680 may be granted at any time upon the petition of any person interested and a hearing, after notice is given by the petitioner to all legatees or devisees and in case of intestacy to all known heirs of the decedent, and to all persons (or their attorneys, if they have appeared by attorney) who have requested special notice as provided in Section 1202, or who have given notice of appearance in person or by attorney, for the period and in the manner required by Section 1200.5.

SEC. 8. Section 845 is added to the Probate Code, to read:

845. The term "lease," as used in this article, shall include without limitation a lease which includes an option to purchase the real property of the estate, provided, however, that the applicable provisions for court approval in both this article and Section 584.3 shall apply to the execution of such a lease.

SEC. 9. Section 1000 of the Probate Code is amended to read:

1000. When two months have elapsed after the first issuance of letters as provided in Section 700 and upon bond—or with or without bond, as the court determines, when the time for filing or presenting claims has expired and all uncontested claims have been paid or are sufficiently secured by mortgage, or otherwise, but the estate is not in a condition to be finally closed and distributed—the executor or administrator, or any heir, devisee, or legatee, or the assignee, grantee, or successor in interest of any heir, devisee, or legatee, may petition the court for distribution of a legacy, devise, or share of the estate or any portion or portions thereof to which he or she is entitled or a payment on account of the legacies to the heirs, devisees, or legatees or any assignees, grantees, or successors in interest or where there are priorities, to those of the class or classes having priorities; or, if the decedent was a nonresident and left a will which has been duly proved or allowed in the state of his or her residence, and the will has been admitted to probate in this state pursuant to Article 4 (commencing with Section 360) of Chapter 1 of Division 3, or if the decedent died intestate, and an administrator has been duly appointed and qualified in the state of his or her residence, and it is necessary, in order that the estate or any part thereof may be distributed according to the will, or it is for the best interests of the estate, that any part of the estate in this state should be delivered to the executor or administrator in the state of the decedent's residence, the executor or administrator may petition the court for an order authorizing the delivery of such portion of the estate as the court shall deem safe and proper and for the best interests of the estate, to the executor or administrator in the state of decedent's residence.

The clerk shall set the petition for hearing by the court. At least 10 days before the hearing of the petition, notice of the hearing must be served upon the executor or administrator when he or she is not the petitioner, upon the devisees and legatees whose interest in the estate is affected by such petition for distribution, to the heirs of the decedent in intestate estates, to the State of California if any portion of the estate is to escheat to it, and to persons who have filed a request for special notice pursuant to Section 1202. Such notice shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, at his or her last known mailing address. Any person interested in the estate or any coexecutor or coadministrator may resist the petition.

SEC. 10. Section 1025.5 of the Probate Code is amended to read:

1025.5. Within one year from the date of issuance of letters in estates not required to file a federal estate tax return and within 18

months from the date of issuance of letters in estates where such return is required, the executor or administrator must either petition for final distribution of the estate or file a verified report of status of administration. If such report is filed, it shall show the condition of the estate and the reasons why the estate cannot be distributed and closed. The clerk shall set such report for hearing by the court and the executor or administrator shall give notice thereof to all legatees or devisees, and in case of intestacy, to all known heirs of the decedent, and to all persons (or their attorneys, if they have appeared by attorney) who have requested special notice as provided in Section 1202, or who have given notice of appearance in person or by attorney, for the period and in the manner required by Section 1200.5. Upon the hearing of such report, the court may either order that the administration of the estate continue for such time and upon such terms and conditions as it determines reasonable, provided that it finds that such continuance is in the best interests of the estate or the persons interested therein, or it may order the executor or administrator to file the petition for final distribution.

If such petition or report is not filed by the executor or administrator within the times set forth herein or prescribed by the court, then, upon petition of any person interested in the estate or upon its own motion, the court may cite the executor or administrator to appear before the court and show the condition of the estate and the reasons why the estate cannot be distributed and closed. Upon the hearing of such citation, the court may either order the administration of the estate to continue as above provided or may order the executor or administrator to file the petition for final distribution.

Failure of the executor or administrator to comply with any order made under this section shall be grounds for revocation of letters.

If, upon the hearing for final distribution or for an allowance upon the commissions of the executor or administrator or upon the fees of the attorney, the court finds that the time taken for administration of the estate exceeds the applicable time set forth herein or prescribed by the court, and was caused by factors within the control of the executor or administrator or the attorney and that such time taken was not in best interests of the estate or the persons interested therein, the court may, notwithstanding the provisions of Sections 901 and 910, reduce the fees or commissions of the person or persons having control of such factors by such amount as the court deems appropriate, regardless of whether the fees or commissions otherwise allowable under the provisions of Sections 901 and 910 would be reasonable compensation for the services rendered by such person or persons.

This section shall be applicable only to the estates of persons dying on or after January 1, 1977.

SEC. 11. Section 1200.5 of the Probate Code is amended to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 of this code for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale or a petition to grant an option to purchase real property.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) An account of an executor or administrator or trustee.

(12) A petition for partial or ratable or preliminary or final distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) A petition of a trustee for instructions.

(16) A petition for the appointment of a trustee.

(17) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(18) A report of status of administration.

(19) A petition for family allowance.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been

regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section shall not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) The notice required by this section shall be in addition to the notice, if any, required to be given in the manner specified in Section 1200.

SEC. 12. The amendment to Section 162 of the Probate Code contained in Section 1 of this act shall not affect the estate of any person dying before the effective date thereof.

SEC. 13. Section 1183 of the Civil Code, is amended to read:

1183. The proof or acknowledgment of an instrument may be made without the United States, before any of the following:

(1) A minister, commissioner, or chargé d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.

(2) A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made.

(3) A judge of a court of record of the country where the proof or acknowledgment is made.

(4) Commissioners appointed by the Governor or Secretary of State for that purpose.

(5) A notary public.

If the proof or acknowledgment is made before a notary public, the signature of the notary public must be proved or acknowledged before a judge of a court of record of the country where the proof or acknowledgment is made or by the certificate ("apostille") and in the manner provided for in the Convention Abolishing the Requirement of Legislation for Foreign Public Documents (effected at the Hague, the 5th October 1961).

CHAPTER 521

An act to amend Section 2934a of the Civil Code, relating to deeds of trust.

[Approved by Governor August 13, 1982. Filed with Secretary of State August 15, 1982.]

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

SECTION 1. Section 2934a of the Civil Code is amended to read:

2934a. (a) (1) The trustee under a trust deed upon real property given to secure an obligation to pay money and conferring no other duties upon the trustee than those which are incidental to the exercise of the power of sale therein conferred, may be substituted by the recording in the county in which the property is located of a substitution executed and acknowledged by all of the beneficiaries under the trust deed, or their successors in interest, and the substitution shall be effective notwithstanding any contrary provision in any trust deed executed on or after January 1, 1968.

(2) The substitution shall contain the date of recordation of the trust deed, the name of the trustor, the book and page where the trust deed is recorded and the name of the new trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority, and title granted and delegated to the trustee named in the deed of trust. A substitution may be accomplished with respect to multiple deeds of trust which are recorded in the same county in which the substitution is being recorded and which all have the same trustee and beneficiary or beneficiaries by recording a single document, complying with the requirements of this section, substituting trustees for all such deeds of trust.

(b) If the substitution is effected after a notice of default has been recorded but prior to the giving of the notice of sale, the beneficiary or beneficiaries shall cause a copy of the substitution to be mailed, prior to the recording thereof, in the manner provided in Section 2924b, to all persons to whom a copy of the notice of default would be required to be mailed by the provisions of Section 2924b, and shall also give a copy of the substitution to the trustee then of record. In those cases, the substitution shall contain an acknowledgment signed and acknowledged by the trustee then of record of a receipt of a copy, or an affidavit of personal service of a copy, or of publication of notice of it in accordance with Section 6061 of the Government Code (showing also that a copy of the substitution had been mailed to the trustee at the trustee's last known address), and an affidavit shall be attached to the substitution that notice has been given to those persons and in the manner required by this subdivision.

(c) Notwithstanding any provision of this section or any provision in any deed of trust, unless a new notice of sale containing the name, street address, and telephone number of the substituted trustee is given pursuant to Section 2924f, any sale conducted by the substituted trustee shall be void.

CHAPTER 522

An act to amend Sections 26840.7 and 26840.8 of the Government Code, and to amend Section 18305 of the Welfare and Institutions Code, relating to marriage license fees.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 17, 1982.]

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

SECTION 1. Section 26840.7 of the Government Code is amended to read:

26840.7. In addition to the fee prescribed by Section 26840 and as authorized by Section 26840.3, the county clerk shall collect a fee of thirteen dollars ($13) at the time of issuance of the license. The fee shall be disposed of by the clerk pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 2. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage or the county clerk, upon providing a blank authorization form pursuant to subdivision (b) of Section 4213, shall collect a fee of thirteen dollars ($13) at the time of filing the certificate. The fee shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 2.5. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage pursuant to subdivision (a) of Section 4213 of the Civil Code or the county clerk, upon providing a blank authorization form pursuant to subdivision (b) of Section 4213 of the Civil Code, shall collect a fee of thirteen dollars ($13) at the time of providing the authorization. The fee shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 3. Section 18305 of the Welfare and Institutions Code is amended to read:

18305. At the time of issuance of a marriage license pursuant to Section 26840 of the Government Code, thirteen dollars ($13) of each fee paid shall be collected by the county clerk for deposit at the county's election into the county domestic violence programs special fund. The fees collected in this special fund shall be disbursed to approved programs on a yearly or more frequent basis commencing July 1, 1980.

The county clerk shall, at the request of the board of supervisors, deposit thirteen dollars ($13) of each fee into a county domestic violence programs special fund. The county domestic violence programs special fund shall fund programs established pursuant to Section 18304. No more than 10 percent of the funds shall be expended for the administrative costs associated with the collection and segregation of the additional marriage license fees, administration of the county special fund, monitoring of the programs, and meeting the other administrative requirements imposed by this chapter. Counties which do not participate in the establishing or funding of domestic violence programs pursuant to this chapter, shall be entitled to retain up to 4 percent of the funds for the administrative costs associated with the collection and segregation of the additional marriage license fees and the deposit of these fees in the General Fund in the State Treasury. Any money not used by the county for programs described pursuant to this chapter, shall be deposited in the General Fund.

The Controller shall ensure that the amount deposited in the General Fund pursuant to this section shall be obligated to repay any General Fund appropriation made in the 1983 Budget Act; and thereafter shall be used to finance domestic violence programs in those counties where the revenue generated pursuant to this chapter does not exceed two thousand dollars ($2,000) per year.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1301 are both chaptered and become effective January 1, 1983, both bills amend Section 26840.8 of the Government Code, and this bill is chaptered after Senate Bill 1301, that the amendments to Section 26840.8 proposed by both bills be given effect and incorporated in Section 26840.8 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill 1301 are both chaptered and become effective January 1, 1983, both amend Section 26840.8, and this bill is chaptered after Senate Bill 1301, in which case Section 2 of this act shall not become operative.

CHAPTER 523

An act relating to reparations for salary losses caused by the dismissal of state civil service employees pursuant to Senate Concurrent Resolution 15 of the 1941–42 First Extraordinary Session.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 17, 1982.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The dismissal of various state civil service employees during the wartime years of World War II was based largely on fear and suspicion rather than on factual justification therefor.

(b) Various dismissals resulted directly from the enactment of Senate Concurrent Resolution 15 (Res. Ch. 49, Stats. 1941–42, 1st Ex. Sess.), which called into question the loyalty of state civil service employees, particularly those with dual citizenship, and their children, and called upon the State Personnel Board to dismiss those persons from, or prevent them from obtaining, state civil service employment based upon their disloyalty.

(c) It is fair and just that reparations should be made to those employees who were terminated from state civil service during the wartime years as a result of the enactment of SCR 15.

(d) To this end, the Legislature finds that equity and fairness will be served by authorizing the filing of claims with the state for salary losses suffered by the civil service employees directly affected, and authorizing the payment thereof, subject to the provisions of this act.

SEC. 2. Any person who, due to the enactment of SCR 15, was dismissed, terminated from a temporary position, rejected during their probationary period, or voluntarily resigned in lieu of dismissal from state civil service and who incurred salary losses as a result thereof, is eligible to file a claim with the state for the reparation of those losses. Claims must be postmarked by May 15 of each year.

SEC. 3. The claim may be submitted for the reparation of the salary losses suffered during the years 1942 to 1947. The claim shall be supported by appropriate verification, such as the person's name at the time of the dismissal, the name of the employing department, a social security number, or by evidence of official action, such as a letter of termination.

SEC. 4. Claims shall be filed with the Department of Personnel Administration, which shall determine the eligibility of a claimant to receive reparations authorized by this act. The department may enact regulations that will assist in the fair determination of eligibility and the processing of claims. The department, however, shall have no obligation to directly notify any person of possible eligibility for reparation of salary losses pursuant to this act.

SEC. 5. A claimant who is determined eligible by the department shall receive one thousand two hundred fifty dollars ($1,250) each year for up to four years. All claims which the department determines are eligible for reparation shall be forwarded to the Controller, who shall issue warrants in the appropriate amounts. In the event of the death of an eligible claimant, payment shall be made to the claimant's estate.

SEC. 6. No person other than a person who suffered a loss of salary as a result of state action taken pursuant to SCR 15, shall be eligible to file a claim pursuant to this act. No claim may be filed by the survivor of any such person. The death of a claimant prior to a claim shall terminate the claim.

SEC. 7. It is the intent of the Legislature that the appropriation for the payment of reparations authorized by this act shall be made in the Budget Act of 1983, and that the payment of those eligible claims shall be made upon the effective date of that act.

CHAPTER 524

An act to amend Section 26003 of the Public Resources Code, relating to energy resources.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) "Authority" means the California Alternative Energy Source Financing Authority established pursuant to Section 26004 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given.

(b) "Cost" as applied to a project or portion thereof financed under the provisions of this division means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest therein, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of such construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.

(c) "Participating party" means any person, company, corporation, partnership, firm, or other entity or group of entities engaged in operations within this state which requires financing pursuant to the terms of this division to aid and assist in the promotion of alternative energy sources in the state.

(d) "Alternative sources" means the application of cogeneration

technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(e) "Project" means any land, building, improvement thereto, rehabilitation, work, property, or structure, real or personal, including, but not limited to, machinery and equipment, whether or not in existence or under construction, utilizing or designed to utilize an alternative source.

(f) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from the sale, lease, or other disposition of alternative source facilities, or the making of loans to finance alternative source facilities, and any income or revenue derived from the investment of any money in any fund or account of the authority.

(g) "Public agency" means any federal or state agency, board, or commission, or any county, city and county, city, regional agency, public district, or other political subdivision.

CHAPTER 525

An act to amend Section 39619 of the Education Code, relating to school property.

[Approved by Governor August 17, 1982 Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 39619 of the Education Code is amended to read:

39619. (a) Whenever, in any given fiscal year, a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established pursuant to Section 39618 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in Section 39618, exclusive of categorical aid funds and any proceeds from the sale of district property which were expended for the purpose of the district deferred maintenance account, in either the 1978–79 or 1979–80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to Section 42237 or 42238, the Superintendent of Public Instruction shall so certify to the State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar ($1) for each one dollar ($1) of local funds up to

a maximum of ½ percent of the total general funds and adult education funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service, to the extent of funds available pursuant to Chapter 24 (commencing with Section 17780) of Part 10.

CHAPTER 526

An act to amend Section 18555 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 17, 1982 Filed with Secretary of State August 18, 1982]

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

SECTION 1. The Legislature finds and declares that the existing statutory provisions designed to relieve "innocent spouses" of liability from income tax deficiencies are in fact so limiting that many truly deserving spouses are being denied freedom from liability, because the Franchise Tax Board and the courts lack the statutory flexibility to grant justice on a case-by-case basis. This act liberalizes the standards applied to eligibility for "innocent spouse" status, and recognizes that a spouse's financial problems may stem not only from back taxes resulting from any type of erroneous income tax computation, but also from nonpayment or underpayment of tax due.

SEC. 2. Section 18555 of the Revenue and Taxation Code is amended to read:

18555. (a) The spouse who controls the disposition of or who receives or spends community income as well as the spouse who is taxable on the income is liable for the payment of the taxes imposed by this part on that income.

(b) Whenever a joint return is filed by a husband and wife, the liability for the tax on the aggregate income is joint and several. The liability may be revised by a court in a proceeding for dissolution of the marriage of the husband and wife, provided:

(1) The order revising tax liability may not relieve a spouse of tax liability on income earned by or subject to the exclusive management and control of the spouse. The liability of the spouse for the tax, penalties, and interest due for the taxable year shall be in the same ratio to total tax, penalties, and interest due for the taxable year as the income earned by or subject to the management and control of the spouse is to total gross income reportable on the return.

(2) The order revising tax liability:

(A) Must separately state the taxable years for which revision of tax liability is granted.

(B) Shall not revise a tax liability that has been fully paid prior to

the effective date of the order; however, any unpaid amount may be revised.

(C) Shall become effective when the Franchise Tax Board is served with or acknowledges receipt of the order.

(D) Shall not be effective if the gross income reportable on the return exceeds fifty thousand dollars ($50,000) or the amount of tax liability the spouse is relieved of exceeds two thousand five hundred dollars ($2,500) unless a tax revision clearance certificate is obtained from the Franchise Tax Board and filed with the court.

(c) Notwithstanding subdivisions (a) and (b), whenever a joint return is filed by a husband and wife and the tax liability is not fully paid, that liability, including interest and penalties, may be revised by the Franchise Tax Board as to one spouse.

(1) However, the liability shall not be revised:

(A) To relieve a spouse of tax liability on income earned by or subject to the exclusive management and control of the spouse. The liability of the spouse for the tax, penalties, and interest due for the taxable year shall be in the same ratio to total tax, penalties, and interest due for the taxable year as the income earned by or subject to the management and control of the spouse is to total gross income reportable on the return.

(B) To relieve a spouse of liability below the amount actually paid on the liability prior to the granting of relief, including credit from any other taxable year available for application to the liability.

(2) The liability may be revised only if the spouse whose liability is to be revised establishes that he or she did not know of, and had no reason to know of, the nonpayment at the time the return was filed. For purposes of this paragraph, "reason to know" means whether or not a reasonably prudent person would have had reason to know of the nonpayment.

(3) For purposes of this section, the determination of the spouse to whom items of gross income are attributable shall be made without regard to community property laws.

(4) The determination of the Franchise Tax Board as to whether the liability is to be revised as to one spouse shall be made not less than 30 days after notification of the other spouse and shall be based upon whether, under all of the facts and circumstances surrounding the nonpayment, it would be inequitable to hold the spouse requesting revision liable for the nonpayment. Any action taken under this section shall be treated as though it were action on a protest taken under Section 18592 and shall become final upon the expiration of 30 days from the date that notice of the action is mailed to both spouses, unless, within that 30-day period, one or both spouses appeal the determination to the board as provided in Section 18593.

(5) This subdivision shall apply to all taxable years subject to the provisions of this part, but shall not apply to any taxable year which has been closed by a statute of limitations, res judicata, or otherwise.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 527

An act relating to aviation.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Allocations totaling thirteen thousand eight hundred thirty-six dollars ($13,836) made from the Aeronautics Account in the State Transportation Fund by the Division of Aeronautics of the Department of Transportation to the City of Oceanside between July 1, 1975, and June 30, 1979, are hereby ratified, validated, confirmed, and declared legally effective for all purposes.

SEC. 2. The Legislature finds and declares that Section 1 of this act is necessary since special facts and circumstances applicable to the City of Oceanside and not generally applicable make the accomplishment of this purpose impossible by any general law. The funds referred to in Section 1 were expended by the City of Oceanside at a time when the city was ineligible to receive the funds. The city, believing it was eligible to receive the funds, expended them in good faith for otherwise qualified airport purposes, and the city's eligibility problems have since been corrected. The Legislature further finds and declares that this is the only such expenditure of funds involved, that the purpose of this act is impossible to accomplish by any general law within the meaning of Section 16 of Article IV of the California Constitution, and that special legislation applicable to the City of Oceanside is therefore necessary.

CHAPTER 528

An act to amend Section 3332 of the Food and Agricultural Code, relating to the California Exposition and State Fair, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board has authority to do any of the following:

(a) Contract.

(b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a savings and loan association account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds appropriated to the California Exposition and State Fair pursuant to subdivision (a) of Section 19622 of the Business and Professions Code. The Department of Finance shall audit the account at the end of each fiscal year.

(e) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair.

(f) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures.

(g) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(h) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.3 of the Penal Code.

(i) Lease, with the approval of the Department of General Services, any of its property for any purpose for any period of time.

(j) Use or manage any of its property, with the approval of the Department of General Services, jointly or in connection with any lessee or sublessee, for any purpose approved by the board.

SEC. 2. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board has authority to do any of the following:

(a) Contract.

(b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a savings and loan association account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds appropriated to the California Exposition and State Fair pursuant to subdivision (a) of Section 19622 of the Business and Professions Code. The Department of Finance shall audit the account at the end of each fiscal year.

(e) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair.

(f) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures.

(g) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(h) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.3 of the Penal Code. A member of the California State Police Division may be employed as such a marshal or police officer while off duty from his or her regular employment, subject to such conditions as may be set forth by the Chief of the California State Police. At least 75 percent of the persons appointed pursuant to this subdivision must possess the basic certificate issued by the Commission on Peace Officers Standards and Training. The remaining 25 percent may be appointed if the person has completed a Peace Officer Standards and Training certified academy or possesses a Level One Reserve Certificate (as defined in Section 832.6 of the Penal Code).

(i) Lease, with the approval of the Department of General Services, any of its property for any purpose for any period of time.

(j) Use or manage any of its property, with the approval of the Department of General Services, jointly or in connection with any lessee or sublessee, for any purpose approved by the board.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2405 are both chaptered and become effective, both bills amend Section 3332 of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill 2405, that Section 3332 of the Food and Agricultural Code, as amended by Section 1 of Assembly Bill 2405 be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 3332 proposed by this bill. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 2405 are both chaptered and become effective, both bills amend Section 3332, and this bill is chaptered after Assembly Bill 2045, in which case Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the specific powers and the management flexibility provided the Board of Directors of the California Exposition and State Fair by this act may be applicable to the 1982 exposition and fair, it is necessary that this act take effect immediately.

CHAPTER 529

An act to amend Section 461 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 461 of the Food and Agricultural Code is amended to read:

461. The department may conduct surveys or investigations of any nursery, orchard, vineyard, agricultural commodity, agricultural appliance, farm, or other premises within the state liable to be infested or infected with any pest as defined in Section 5006 or disease, including any infectious, transmissible, and contagious diseases of livestock and poultry, for the purpose of detecting the presence of, or determining the status of, the pest or disease. The director and the county agricultural commissioner shall consult concerning these surveys or investigations and in the conduct or implementation of any control or eradication activity when the provisions of this code provide joint responsibilities in connection with the pest or disease.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because provisions of the Food and Agricultural Code presently provide a reimbursement mechanism for local agencies to be reimbursed for the program or level of service mandated by this act.

CHAPTER 530

An act to add Section 13412 to the Business and Professions Code, and to repeal Section 19955.6 of the Health and Safety Code, relating to disabled persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 13412 is added to the Business and Professions Code, to read:

13412. (a) Every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other

facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility, shall provide, upon request, refueling service to a disabled driver of a vehicle which displays a disabled person's plate or placard, or disabled veteran's plate or placard, issued by the Department of Motor Vehicles. The price charged for the motor vehicle fuel in such a case shall be no greater than that which the facility otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

(b) The provisions of this section do not apply to any of the following facilities:

(1) Exclusive self-service gas stations which have remotely controlled gas pumps, which are operated by a single cashier, and which never provide pump island service.

(2) Convenience stores which sell gasoline, which have remotely controlled gas pumps, which are operated by a single cashier, and which never provide pump island service.

(c) Any person who, as a responsible managing individual setting service policy of a station or facility or as an employee acting independently against set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of twenty-five dollars ($25).

(d) Notwithstanding the provisions of Sections 12103.5 and 13590, the provisions of this section shall be enforced by the Director of the Department of Rehabilitation, the district attorney, city attorney, or the Attorney General.

(e) The Director of the Department of Rehabilitation may, upon his or her own motion, and shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the director determines that there may have been a violation, he or she shall refer the matter for prosecution to the district attorney, the city attorney, or the Attorney General.

(f) In addition to those matters referred pursuant to subdivision (e), the district attorney, the city attorney, or the Attorney General, upon his or her own motion, may investigate and prosecute alleged violations of this section.

(g) A notice setting forth the provisions of this section shall be provided by the Board of Equalization, in its quarterly newsletter, to every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility.

(h) A notice setting forth the provisions of this section shall be provided by the Department of Motor Vehicles to every person who is issued a disabled person's plate or placard or a disabled veteran's plate or placard.

(i) For the purposes of this section, "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

SEC. 2. Section 19955.6 of the Health and Safety Code is repealed.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that disabled persons are able to receive refueling services for their vehicles as soon as possible, it is necessary that this act go into effect immediately.

CHAPTER 531

An act to repeal and add Section 4840.7 of the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 4840.7 of the Business and Professions Code is repealed.

SEC. 2. Section 4840.7 is added to the Business and Professions Code, to read:

4840.7. (a) An animal health technician who has been examined by the board in the area of radiation safety and techniques may operate radiographic equipment under the indirect supervision of a licensed veterinarian.

(b) An unregistered assistant may operate radiographic equipment under the direct supervision of an animal health technician or a licensed veterinarian.

CHAPTER 532

An act to amend Section 12205 of, and to repeal and add Section 12024.55 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 12024.55 of the Business and Professions Code is repealed.

SEC. 2. Section 12024.55 is added to the Business and Professions Code, to read:

12024.55. Packages of meat, fish, or poultry offered for sale by door-to-door salespersons shall display the price per pound for each type and cut in the package. The price per pound shall be separately and accurately stated and shall be preceded by the words "price per pound" on each principal display panel of the package, as the term "principal display panel" is defined by regulations of the director adopted pursuant to Section 12610. All numbers and letters of the price per pound shall be of uniform size, at least one-quarter inch (6.35 millimeters) in height, and shall be generally parallel to the net quantity statement. There shall in addition be an area surrounding the statement of price at least equal in width to the height of the letters and numbers in the statement of price which shall be free of any printed material.

SEC. 3. Section 12205 of the Business and Professions Code is amended to read:

12205. For the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office, every county sealer serving in a county shall attend the annual meeting of the California Association of Weights and Measures Officials and such other meetings as the department or the board of supervisors requires.

The county sealer shall be allowed all actual and necessary traveling expenses incurred while on any service that requires him to go outside the county. Those expenses shall be a charge against the county in which the county sealer is employed.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 533

An act to amend Section 32000.5 of the Vehicle Code, relating to hazardous materials.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 32000.5 of the Vehicle Code is amended to read:

32000.5. (a) Every motor carrier who directs the transportation of an explosive and, on and after July 1, 1982, any motor carrier who directs the transportation of a hazardous material, who is required to display placards pursuant to Section 27903, and every retailer, wholesaler, distributor, manufacturer, refiner, or commercial motor carrier who transports in excess of 500 pounds of hazardous material, shall be licensed in accordance with the provisions of this code, unless specifically exempted by this code or regulations adopted pursuant to this code. This license shall be available for examination and shall be displayed in accordance with the regulations adopted by the commissioner.

(b) This division shall not apply to any person hauling only hazardous waste, as defined in Section 25115 or 25117 of the Health and Safety Code, and who is registered pursuant to subdivision (a) of Section 25163 of the Health and Safety Code or who is exempt from that registration pursuant to subdivision (b) of that section.

(c) This division shall not apply to implements of husbandry, as defined in Section 36000.

CHAPTER 534

An act to amend Section 22381 of the Business and Professions Code, relating to invention development services contracts.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 22381 of the Business and Professions Code is amended to read:

22381. In the first oral communication with a customer or in the first written response to an inquiry by a customer other than an oral communication or written response, the primary purpose of which is to arrange an appointment with the invention developer for presentation of his or her invention development services, the

invention developer shall cause the following written disclosures to be made and given to each customer at the time of the disclosure:

(a) A statement of the fee charged, if known, or a statement of the approximate range of fees charged; a statement that a portion of the fee charged will be paid as a commission or other similar payment, if in fact it is intended to be so paid, to a person inducing, directly or indirectly, a customer to contract for the services of the invention developer; and a statement of the approximate portion of the fee charged, if any, that will be expended for services relating to patent matters.

(b) A statement that the invention developer does not intend to expend more for the invention development services than the fee charged the customer, if, in fact, it does not, and if it does, a statement of the estimated expenditures of the invention developer in excess of the fee received from the customer.

(c) A single statement setting forth both (1) the total number of customers who have contracted with the invention developer; however, the number need not reflect those customers who have contracted within the last 30 days; and (2) the number of customers that have received by virtue of the invention developer's performance of invention development services an amount of money in excess of the amount of money paid by those customers to the invention developer.

(d) A statement as follows:

"Any contract for invention development services between you and our firm will be regulated by law. Our firm is not qualified or permitted to advise you whether protection of your idea or invention is available under the patent, copyright or trademark laws of the United States or any other law. The contract does not provide any patent, copyright or trademark protection for your idea or invention. If your idea or invention is patentable, copyrightable or subject to trademark protection, or infringes an existing valid patent, copyright or trademark or a patent, copyright or trademark for which application has been made, your failure to inquire into these matters may affect your rights to your idea or invention."

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 535

An act to amend Sections 11707, 11712, and 11713 of the Vehicle Code, relating to occupational licenses.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 11707 of the Vehicle Code is amended to read:

11707. (a) The director may, following the filing of an accusation against a licensee under this chapter and prior to conducting a hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, exercise an option, with the consent of the licensee, to enter into and adopt a stipulated penalty whereby the licensee agrees to accept the terms and conditions of the penalty without hearing or appeal by any party thereto.

(b) The director may, following the filing of an accusation against a licensee or prior to adopting any recommendation resulting from a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, exercise an option, with the consent of the licensee, to impose and require the payment of a monetary penalty of a minimum and maximum amount for each violation alleged and stipulated to by the licensee, as established by a schedule under regulations adopted pursuant to this code, without further hearing or appeal.

(c) Each compromise settlement agreement and each monetary penalty agreement effected pursuant to this section shall be signed by the respondent licensee, the director, and the accuser, or by their authorized representatives, and filed with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation upon which the action was initiated if the compromise settlement agreement or monetary payment agreement is effected before the hearing.

(d) Failure of the respondent to honor the terms and conditions of any agreement effected under this section shall render the agreement null and void, and shall be cause for action pursuant to Section 11705 in the same manner as the department may have otherwise proceeded notwithstanding the agreement.

The amount of the penalty provided for in subdivision (b) shall not exceed one thousand dollars ($1,000) and shall be based upon the nature of the violation and the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter.

SEC. 2. Section 11712 of the Vehicle Code is amended to read:

11712. (a) The department shall not issue a dealer's license to

any applicant therefor who has not an established place of business as defined in this code. Should the dealer change the site or location of his established place of business, he or she shall, immediately upon making that change, so notify the department. Should a dealer for any reason whatsoever, cease to be in possession of an established place of business from and on which he or she conducts the business for which he or she is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the dealer's license, dealer's special plate or plates, and all report of sale books in his or her possession.

(b) Should the dealer change to, or add another franchise for the sale of new vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new vehicles, he or she shall immediately so notify the department.

(c) Any person licensed under this article who has closed his or her established place of business may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business, unless the person has notified the department in writing of another address where service may be made.

SEC. 3. Section 11713 of the Vehicle Code is amended to read:

11713. It shall be unlawful and a violation of this code for the holder of any license issued under this article:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer from the manufacturer or distributor of the vehicle at the time of the advertisement or offer; provided, however, that this subdivision does not apply to advertising or offering for sale or exchange any used mobilehome or used commercial coach, as defined by Section 18014 of the Health and Safety Code, other than a recreational vehicle, as defined by Section 18010 of the Health and Safety Code, where the advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome or commercial coach and the owner of the mobilehome park, and which mobilehome or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, as defined in Section 18214 of the Health and Safety Code, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized

or its continued presence and the use would be authorized, for a total and uninterrupted period of at least one year.

(c) To fail within 48 hours in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise or represent a vehicle as a new vehicle if the vehicle falls within the purview of Section 665.

(e) To engage in the business for which licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as hereinbefore provided.

(f) For any licensed dealer to engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) To include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which amount is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) To employ any person as a salesman who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as provided in Section 11812.

(i) To deliver, following sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000).

(j) To use or permit the use of the special plates assigned to him for any purpose other than as permitted by Section 11715.

(k) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his behalf or at his place of business, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(*l*) To participate in the sale of a vehicle reported to the Department of Motor Vehicles under the provisions of Section 5900 or Section 5901 of this code without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) To permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the dealer's license, supplies, or books

to operate a branch location to be used by any other person, whether or not the licensee has any financial or equitable interest or investment in the vehicles sold by, or the business of, or branch location used by, the other person.

(n) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(o) To fail to deliver or honor the terms and conditions of any warranty as set forth in Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(p) To violate any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of, or Section 18613 of, the Health and Safety Code or any rules and regulations issued pursuant thereto.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 536

An act to amend Sections 18320 and 18455 of, to repeal and add Section 18272 of, and to repeal Section 18314.6 of, the Financial Code, relating to industrial loan companies.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 18272 of the Financial Code is repealed.

SEC. 2. Section 18272 is added to the Financial Code, to read:

18272. An industrial loan company shall diversify the loans and lease obligations it makes and other obligations it acquires, both as to the types of debtors and obligors and types of collateral. The requirement for diversification notwithstanding, an industrial loan company may specialize in its lending, leasing, and other authorized practices under this division. The commissioner shall promulgate rules and regulations pursuant to this section.

SEC. 3. Section 18314.6 of the Financial Code is repealed.

SEC. 4. Section 18320 of the Financial Code is amended to read:

18320. Notwithstanding the provisions of Section 18319, an industrial loan company shall in no event:

(a) Have outstanding at any time during its first 12 months of operation as an industrial loan company under this division, its investment certificates (exclusive of those hypothecated with the

company issuing them) in an aggregate sum in excess of three times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(b) After 12 months of operation as an industrial loan company under this division and during the next 12 months of operation the industrial loan company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed six times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(c) After 24 months of operation as an industrial loan company under this division and during the next 12 months of operation the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed eight times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(d) After 36 months of operation as an industrial loan company under this division and during the next 24 months of operation the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed 10 times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319.

(e) After 60 months of operation as an industrial loan company under this division, the company may file an application with the commissioner seeking authority to increase the aggregate sum of its investment certificates which it may have outstanding, which (exclusive of those investment certificates hypothecated with the company issuing them) in no event shall exceed fifteen times the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319, and which may exceed 10 times the amount of its paid-up and unimpaired capital and unimpaired surplus not available for dividends pursuant to Section 18319 only if both of the following requirements are met:

(1) A company shall maintain a liquidity reserve in cash, or cash equivalent, equal to 1½ percent of its total investment certificates outstanding. Cash equivalent is defined as investments legal for commercial banks under the laws of this state, with a maturity of not more than 12 months.

(2) In addition to the reserve for losses required by the

commissioner pursuant to Section 18343, a company shall establish and maintain such special reserves for losses as the commissioner, by rule or order, may require.

(f) Whenever the commissioner deems it reasonable and necessary or advisable for the protection of the public, the commissioner may at any time by order authorize said industrial loan company to have its investment certificates outstanding in either a lesser aggregate sum than the maximum aggregate amounts permitted by subdivision (a), (b), (c), (d), or (e), or none at all.

(g) The request for authority filed with the commissioner pursuant to subdivisions (b), (c), (d), and (e) shall be set forth in an application in such form and containing such information as the commissioner may require.

(h) The commissioner shall by rule or regulation set forth the criteria that must be met before an industrial loan company can be granted authority to increase the aggregate sum of its outstanding investment certificates.

(i) If the commissioner does not within 60 days of the filing of an application grant a request by an industrial loan company operating under this division, for authority to increase the aggregate sum of its outstanding investment certificates to the requested amount, or issues an order pursuant to subdivision (f) such company may file with the commissioner its written request for hearing in accordance with the provisions of subdivisions (d) and (e) of Section 18315.

SEC. 5. Section 18455 of the Financial Code is amended to read:

18455. An industrial loan company shall not, directly or indirectly, make any loan to, or purchase a contract or chose in action from, hold a lease obligation of, or purchase a lease contract from:

(a) A person who is an officer or director of the industrial loan company or of its holding or affiliated company.

(b) A person who is a holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.

(c) A person in which an officer or director of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly.

(d) A person in which the holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section

25101 of the Corporations Code.

(e) A person who acquired such contracts directly or indirectly or through intervening assignments from a person described in subdivision (a), (b), (c), or (d).

Any officer, director or shareholder of an industrial loan company who directly or indirectly makes or procures or participates in making or procuring a loan or contract in violation of this section or knowingly approves the same is personally liable for any loss resulting to an industrial loan company from such loan or contract, in addition to any other penalties provided by law.

The prohibition contained in this section shall not apply to the purchase by an industrial loan company of a contract or chose in action from a personal property broker, provided written authorization for such purchase is obtained from the commissioner.

CHAPTER 537

An act to amend Section 53654 of the Government Code, relating to funds of local agencies.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 53654 of the Government Code is amended to read:

53654. (a) The depository may add securities to the pool or substitute securities of equal value for those in the pool at any time.

(b) Withdrawal of securities from the pool without replacement at equal value may be ordered only by a bonded officer or employee of the depository who has satisfied such requirements as may be set by the administrator. The agent of depository is responsible for the safekeeping and disbursement of securities placed in its custody by a depository. It shall release securities only upon presentation by the depository of the most reasonably current statement of the total deposits subject to this article held by the depository, such statement to be verified and countersigned by a bonded officer, other than one who may have ordered the withdrawal of securities. A copy of this statement shall be forwarded to the administrator concurrently by the agent of depository.

CHAPTER 538

An act to amend Section 9801 of, and to add Section 9806 to, the Business and Professions Code, relating to electronic and appliance repair dealers.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 9801 of the Business and Professions Code is amended to read:

9801. The following terms as used in this chapter have the meaning expressed in this section:

(a) "Person" includes firm, partnership, association, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Electronic and Appliance Repair.

(e) "Chief" means the Chief of the Bureau of Electronic and Appliance Repair.

(f) "Board" means the Electronic and Appliance Repair Advisory Board.

(g) "Service dealer" means a person who, for compensation, engages in the business of:

(1) Repairing, servicing, or maintaining television, radio, audio or video recorders or playback equipment, video cameras, video games, or computer systems normally used or sold for personal, family, or household use.

(2) Installing, repairing, servicing, or maintaining radios, antennas, audio recorders or audio playback equipment normally used or sold for use in private motor vehicles.

(3) Installing, repairing, servicing, or maintaining television or radio receiver antennas located on or adjacent to a residence and not involving a function which is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000).

(4) Repairing, servicing, or maintaining major home appliances.

(h) "Equipment" for the purposes of this chapter means a set, appliance, antenna, rotator, and accessories.

(i) "Set" means any television, radio, audio or video recorder or playback equipment, video camera, video game, or computer system normally used or sold for personal, family, or household use.

(j) "Appliance" or "major home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air conditioner normally used or sold for personal, family, or household use.

(k) "Antenna" or words of like import, means a resonant device

designed especially for the purpose of capturing electromagnetic energy transmitted by direct satellite or commercial radio or television stations. An antenna, and its associated accessories, is not deemed to be a part of a set, and shall be considered, under this section, to be located outside or in the attic of a residence.

(*l*) "Rotator," when used in connection with an antenna installation or repair, means an electromechanical device operated from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories is not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.

(m) "Accessories," when used in connection with an antenna or rotator installation or repair, means masts, towers, clamps, guy wires, eye hooks, standoff insulators, roof saddles, vent pipe mounts, chimney mount kits, signal amplifiers/boosters, multiset couplers, transmission lines, control cables, directional control units, and such other devices as may be used from time to time to effect such installation or repair.

(n) "Computer system" means a central processing unit which performs data manipulation functions, and any associated peripheral devices, including, but not limited to, keyboards, display terminals, printers, or disk drives.

(o) "Video game" means any electronic amusement device which utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube or a television set or a monitor.

(p) "Complainant" means the customer of a service dealer who has complained to the director concerning such service dealer.

SEC. 2. Section 9806 is added to the Business and Professions Code, to read:

9806. An automobile dealer or manufacturer, licensed pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code shall not be required to be registered under this chapter where such dealer or manufacturer installs or replaces an automobile radio or antenna as a function related to the sale of a motor vehicle.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 539

An act to amend Section 8 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951), relating to the Contra Costa County Flood Control and Water Conservation District.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 8 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is amended to read:

Sec. 8. The board shall have power to make and enforce all needful rules and regulations for the administration and government of the district, and in addition to the officers and employees herein otherwise prescribed, the board may, in its discretion, appoint a chairman, a secretary, and other officers, agents, and employees for the board or district as, in its judgment, may be deemed necessary, prescribe their duties, and fix their compensation.

CHAPTER 540

An act to add Section 31149.3 to the Water Code, relating to county water districts.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 31149.3 is added to the Water Code, to read:

31149.3. The North Marin County Water District may construct, maintain, and operate one or more plants for the generation of power from wind or solar radiation, and the transmission lines for the conveyance thereof, and in connection therewith shall have all the powers set forth in this article for the generation of hydroelectric power.

SEC. 2. The North Marin County Water District has a potential source of power from wind or solar radiation. This potential source of power is not common to other county water districts. The Legislature therefore finds and declares that a special law is necessary with respect to the North Marin County Water District, that the provisions of Section 1 of this act are needed to meet the special circumstances within the district, and that a general law cannot be made applicable within the meaning of Section 16 of

Article IV of the California Constitution.

CHAPTER 541

An act to amend Section 7.1 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session), relating to districts.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 7.1 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session) is amended to read:

Sec. 7.1. (a) In addition to the powers described in Section 7, the district shall have the power by ordinance or resolution to prescribe, revise, and collect fees and charges in any zone and in any special zone as a condition of development of land. Land to be developed within a special zone shall be subject both to the fees and charges of the zone in which it is located and the fees and charges of the special zone in which it is located. Development of land for the purposes of this section shall include, but not be limited to, subdivision development as governed by the Subdivision Map Act; construction of new buildings, structures and improvements for residential, commercial or industrial purposes; and any development of land requiring either zone variance or special use permit.

(b) (1) The amount of fees and charges levied for each zone and for each special zone shall be determined separately and shall be based upon the need created by development of land for flood control facilities within the zone or special zone.

(2) The amount of fees and charges levied for any zone, other than a special zone, shall not exceed one thousand six hundred dollars ($1,600) for each acre or portion thereof of land to be developed. The district, by ordinance or resolution, may annually adjust the maximum amount of the fees and charges for each acre or portion thereof of land to be developed based upon a recognized cost index. An ordinance or resolution adjusting the maximum amount of the fees and charges shall become operative upon approval of two-thirds of the electors voting on the proposition in the zone.

(3) Fees and charges prescribed as a condition of development of land pursuant to this section shall be in addition to any other conditions imposed on the development by any other agency having power to prescribe such other conditions.

(c) Except as hereinafter provided, revenues derived from fees and charges prescribed for any zone may be used only for the acquisition, engineering, design, construction, reconstruction,

maintenance, or operation of flood control or storm drainage facilities within that zone, or within any special zone located in that zone, or used to pay the interest on or reduce the principal of any bonded indebtedness of that zone. At the discretion of the board of supervisors, all or part of the fees and charges prescribed for any zone which are collected as a condition of development of land located within a special zone may be used to pay the interest on or reduce the principal of any bonded indebtedness of that special zone.

(d) Except as hereinafter provided, revenues derived from fees and charges prescribed for any special zone shall be used only for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation of flood control or storm drainage facilities within that special zone or used to pay the interest on or reduce the principal of any bonded indebtedness of that special zone.

(e) At the discretion of the board of supervisors, all or part of fees and charges prescribed for any zone or special zone need not be collected as a condition of development of land located within a protection district established under the Protection District Act of 1907 or if collected from that land, all or part of those fees may be remitted to the protection district to be used to pay the interest on or reduce the principal of any bonded indebtedness of that protection district.

(f) Whenever the development of land within any zone or within any special zone is made subject to fees or charges by the board of supervisors pursuant to this section, the board of supervisors may allow a credit against those fees for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation costs of any flood control or storm drainage facility within the zone or special zone which has been constructed or paid for in connection with the development of land within that zone or special zone.

(g) The board of supervisors may also reduce fees or charges prescribed for any part of the land to be developed within the zone or special zone if they find that because of special circumstances the payment thereof would be inequitable or would cause undue hardship and the reduction of the fees would be in the public interest.

(h) The consent and approval of the legislative body of a city shall be necessary before any fees or charges may be levied on the development of land located within the corporate boundaries of a city which are higher than any fees or charges levied on the development of land located outside the corporate boundaries of that city.

CHAPTER 542

An act to amend Section 27400 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 27400 of the Vehicle Code is amended to read:

27400. No person operating any motor vehicle shall wear any headset covering, or any earplugs in, both ears. The provisions of this section shall not apply to:

(a) Persons operating authorized emergency vehicles, as defined in Section 165, under emergency conditions.

(b) Any person engaged in the operation of either special construction equipment or equipment for use in the maintenance of any highway.

(c) Any person engaged in the operation of refuse collection equipment who is wearing a safety headset or safety earplugs.

(d) Any person wearing personal hearing protectors in the form of custom earplugs or molds that are designed to attenuate injurious noise levels. The custom plugs or molds shall be designed in such a manner as to not inhibit the wearer's ability to hear a siren or horn from an emergency vehicle or a horn from another motor vehicle.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Considerations of public safety make it essential that this act take effect immediately.

CHAPTER 543

An act to amend Section 8574.8 of the Government Code, and to amend Section 2454 of the Vehicle Code, relating to highways.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 8574.8 of the Government Code is amended to read:

8574.8. (a) A state toxic disaster contingency plan established

pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs. During the preparation of the state toxic disaster contingency plan, the Office of Emergency Services shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The Office of Emergency Services shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the state toxic disaster contingency plan.

(c) Notwithstanding subdivision (a), the law enforcement agency having primary traffic investigative authority may enter into written agreements with other public agencies to facilitate management at the scene of an on-highway hazardous substance spill or disaster on local streets and roads other than freeways.

SEC. 2. Section 2454 of the Vehicle Code is amended to read:

2454. The authority for the management of the scene of an on-highway hazardous substance spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the spill occurs.

Notwithstanding the above provisions, the law enforcement agency having primary traffic investigative authority may enter into written agreements with other public agencies to facilitate management at the scene of an on-highway hazardous substance spill or disaster on local streets and roads other than freeways.

CHAPTER 544

An act to amend Sections 99209.5 and 99215 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 99209.5 of the Public Utilities Code is amended to read:

99209.5. "Operates" for purposes of Sections 99209 and 99215, and "operation" for purposes of paragaraph (1) of subdivision (b) of Section 99289, mean that the operator owns or leases the equipment, establishes routes and frequency of service, regulates and collects fares, and otherwise controls the efficiency and quality of the operation of the system, but does not require that operators of rolling stock be employees of a public agency.

SEC. 2. Section 99215 of the Public Utilities Code is amended to read:

99215. "Transit development board" means a public entity created pursuant to state law and designated in the enabling legislation as a transit development board including, solely for purposes of submission of claims, receipt of funds, and provision of service as an operator under this chapter, any nonprofit corporation or other legal entity wholly owned or controlled by the transit development board which operates a public transportation system.

CHAPTER 545

An act to amend Sections 1747.02, 1747.05, and 1747.50 of, to add Section 1747.01 to, to repeal Section 1747.30 of, and to repeal and add Sections 1747.10, 1747.20, and 1747.90 of, the Civil Code, relating to credit cards.

[Approved by Governor August 17, 1982. Filed with Secretary of State August 18, 1982.]

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

SECTION 1. Section 1747.01 is added to the Civil Code, to read:

1747.01. It is the intent of the Legislature that the provisions of this title as to which there are similar provisions in the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), essentially conform, and be interpreted by anyone construing the provisions of this title to so conform, to the Truth in Lending Act and any rule, regulation, or interpretation promulgated thereunder by the Board of Governors of the Federal Reserve System, and any interpretation issued by an official or employee of the Federal Reserve System duly authorized to issue such interpretation.

SEC. 2. Section 1747.02 of the Civil Code is amended to read:

1747.02. As used in this title:

(a) "Credit card" means any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or

services on credit. "Credit card" shall not mean any single credit device used to obtain telephone property, labor or services in any transactions under public utility tariffs, nor shall it mean any device that may be used to obtain credit pursuant to an electronic fund transfer but only if such credit is obtained under an agreement between a consumer and a financial institution to extend credit when the consumer's asset account is overdrawn or to maintain a specified minimum balance in the consumer's asset account.

(b) "Accepted credit card" means any credit card which the cardholder has requested or applied for and received or has signed, or has used, or has authorized another person to use, for the purpose of obtaining money, property, labor, or services on credit. Any credit card issued in renewal of, or in substitution for, an accepted credit card becomes an accepted credit card when received by the cardholder, whether such card is issued by the same or a successor card issuer.

(c) "Card issuer" means any person who issues a credit card or the agent of such person for such purpose with respect to such card.

(d) "Cardholder" means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of Sections 1747.05, 1747.10, and 1747.20, the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(e) "Retailer" means every person other than a card issuer who furnishes money, goods, services, or anything else of value upon presentation of a credit card by a cardholder.

(f) "Unauthorized use" means the use of a credit card by a person, other than the cardholder, (i) who does not have actual, implied, or apparent authority for such use and (ii) from which the cardholder receives no benefit. "Unauthorized use" does not include the use of a credit card by a person who has been given authority by the cardholder to use the credit card. Any attempted termination by the cardholder of such person's authority is ineffective as against the card issuer until such time as the cardholder complies with such procedures as may be required by the card issuer to terminate such authority. Notwithstanding the above, following the card issuer's receipt of oral or written notice from a cardholder indicating that it wishes to terminate the authority of a previously authorized user of a credit card, the card issuer shall follow its usual procedures for precluding any further use of a credit card by an unauthorized person.

(g) An "inquiry" is a writing which is posted by mail to the address of the card issuer to which payments are normally tendered, unless another address is specifically indicated on the statement for such purpose, then to such address, and which is received by the card

issuer no later than 60 days after the card issuer transmitted the first periodic statement that reflects the alleged billing error, and which:

(1) Sets forth sufficient information to enable the card issuer to identify the cardholder and the account;

(2) Sufficiently identifies the billing error; and

(3) Sets forth information providing the basis for the cardholder's belief that such billing error exists.

(h) A "response" is a writing which is responsive to an inquiry and mailed to the cardholder's address last known to the card issuer.

(i) A "timely response" is a response which is mailed within two complete billing cycles, but in no event later than 90 days, after the card issuer receives an inquiry.

(j) A "billing error" means an error by omission or commission in (1) posting any debit or credit, or (2) in computation or similar error of an accounting nature contained in a statement given to the cardholder by the card issuer. A "billing error" does not mean any dispute with respect to value, quality or quantity of goods, services or other benefit obtained through use of a credit card.

(k) "Adequate notice" means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning.

SEC. 3. Section 1747.05 of the Civil Code is amended to read:

1747.05. No credit card shall be issued except:

(a) In response to an oral or written request or application therefor; or

(b) As a renewal of, or in substitution for, an accepted credit card whether such card is issued by the same or a successor card issuer.

SEC. 4. Section 1747.10 of the Civil Code is repealed.

SEC. 5. Section 1747.10 is added to the Civil Code, to read:

1747.10. A cardholder shall be liable for the unauthorized use of a credit card only if all of the following conditions are met:

(a) The card is an accepted credit card.

(b) The liability is not in excess of fifty dollars ($50).

(c) The card issuer gives adequate notice to the cardholder of the potential liability.

(d) The card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card.

(e) The unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise.

(f) The card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it.

SEC. 6. Section 1747.20 of the Civil Code is repealed.

SEC. 7. Section 1747.20 is added to the Civil Code, to read:

1747.20. If 10 or more credit cards are issued by one card issuer for use by the employees of an organization, Section 1747.10 does not prohibit the card issuer and the organization from agreeing to

liability for unauthorized use without regard to Section 1747.10. However, liability for unauthorized use may be imposed on an employee of the organization, by either the card issuer or the organization, only in accordance with Section 1747.10.

SEC. 8. Section 1747.30 of the Civil Code is repealed.

SEC. 9. Section 1747.50 of the Civil Code is amended to read:

1747.50. (a) Every card issuer shall correct any billing error made by the card issuer within two complete billing cycles, but in no event later than 90 days, after receiving an inquiry.

(b) Any card issuer who fails to correct a billing error made by the card issuer within the period prescribed by subdivision (a) shall not be entitled to the amount by which the outstanding balance of the cardholder's account is greater than the correct balance, nor any interest, finance charges, service charges, or other charges on the obligation giving rise to the billing error.

(c) Any cardholder who is injured by a willful violation of this section may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which actual damages are assessed. The cardholder shall be entitled to recover reasonable attorney's fees and costs incurred in the action.

SEC. 10. Section 1747.90 of the Civil Code is repealed.

SEC. 11. Section 1747.90 is added to the Civil Code, to read:

1747.90. (a) (1) Subject to the limitation contained in subdivision (b), a card issuer who has issued a credit card to a cardholder pursuant to an open-end consumer credit plan shall be subject to all claims and defenses, other than tort claims, arising out of any transaction in which the credit card is used as a method of payment or extension of credit if the following conditions are met:

(A) The cardholder has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card.

(B) The amount of the initial transaction exceeds fifty dollars ($50).

(C) The place where the initial transaction occurred was in California, or, if not within California, then within 100 miles from the cardholder's current designated address in California.

(2) The limitations set forth in subparagraphs (B) and (C) of paragraph (1) with respect to a cardholder's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card satisfies any of the following requirements:

(A) Is the same person as the card issuer.

(B) Is controlled by the card issuer.

(C) Is under direct or indirect common control with the card issuer.

(D) Is a franchised dealer in the card issuer's products or services.

(E) Has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the

credit card issued by the card issuer.

(b) The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of the following:

(1) Late charges in the order of their entry to the account.

(2) Finance charges in order of their entry to the account.

(3) Debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

(c) This section does not apply to the use of a check guarantee card or a debit card in connection with an overdraft credit plan, or to a check guarantee card used in connection with cash advance checks.

CHAPTER 546

An act to add Section 1274.35 to the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1982. Filed with Secretary of State August 23, 1982.]

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

SECTION 1. Section 1274.35 is added to the Unemployment Insurance Code, to read:

1274.35. (a) Notwithstanding any other provision of this division, any unemployed individual who, as determined by the director, has been laid off from work as a result of a plant closure or a substantial reduction in employment at the individual's most recent workplace, and whose benefit year has expired and who is not entitled to establish a benefit year, and who has exhausted benefits payable under this part, Part 3 (commencing with Section 3501), and Part 4 (commencing with Section 4001) after January 1, 1982, and who applies for a determination of potential eligibility for benefits under this article no later than December 31, 1982, and who is determined otherwise eligible for benefits under this article is eligible for an additional maximum of 26 times his or her most recent weekly benefit amount and shall not be denied benefits under this division in any week he or she is otherwise eligible for benefits under this article.

(b) Notwithstanding any other provision of this division, any other unemployed individual receiving benefits payable under this

part, Part 3 (commencing with Section 3501), or Part 4 (commencing with Section 4001) or under any other federal unemployment compensation law, who, by December 31, 1982, applies for a determination of potential eligibility for benefits under this article and is determined otherwise eligible for benefits under this article, is eligible for an additional maximum of 26 times his or her weekly benefit amount under the provisions of this article, except that to the extent permitted by federal law, no individual may receive more than 52 times his or her weekly benefit amount under the provisions of this article.

(c) Notwithstanding any other provision of this division, any unemployed individual receiving benefits payable under this part, Part 3 (commencing with Section 3501), or Part 4 (commencing with Section 4001), or any other federal unemployment compensation law, who, after December 31, 1982, but before July 1, 1983, applies for a determination of potential eligibility for benefits under this article and is determined eligible for benefits under this article, is eligible for a maximum of 52 times his or her weekly benefit amount under the provisions of this article if the individual applies no later than the 14th week of his or her unemployment.

(d) The filing of a claim for additional benefits uander this section shall constitute an election to claim these benefits to the exclusion of filing a new claim for benefits payable under this part for any week of unemployment subsequent to the date of the individual's potential eligibility for benefits under this section for which the individual receives benefits under this article.

(e) Additional benefits paid under this section, and not otherwise payable under this division, shall be charged to individual employer reserve accounts, consistent with other provisions of this code.

(f) No benefits shall be payable under this section for any week beginning after July 1, 1983.

(g) To the extent permitted by federal law, benefits payable under any federal unemployment compensation law shall be included as benefits payable under the provisions of this section.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

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

In order to allow workers to take advantage of immediate training opportunities to alleviate severe problems of long-term unemployment caused by the current recession, and to avoid

additional public assistance costs to the state, it is necessary for this act to take effect immediately.

CHAPTER 547

An act to add Article 6 (commencing with Section 1086) to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to property.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Article 6 (commencing with Section 1086) is added to Chapter 1 of Title 4 of Part 4 of Division 2 of the Civil Code, to read:

Article 6. Agency Listings for the Transfer of Certain Property

1086. As used in this article, the following terms have the meanings stated in this section:

(a) "Property" means real property or a mobilehome, as defined in Section 18008 of the Health and Safety Code.

(b) "Sell" and "sale" include lease and exchange.

(c) "Buyer" includes a lessee in case of a lease and the party with whom property is exchanged in case of an exchange.

(d) An "agent" is one authorized by law to act in that capacity for that type of property, and is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code or is a licensee, as defined in Section 18006 of the Health and Safety Code.

(e) A "listing" is a written contract between an owner of property and an agent by which the agent has been authorized to sell the property or to find or obtain a buyer.

A listing may be any of the following:

(1) An "exclusive right to sell listing" is a listing whereby the owner grants to an agent, for a specified period of time, the exclusive right to sell or to find or obtain a buyer for the property, and the agent is entitled to the agreed compensation if during that period of time the property is sold, no matter who effected the sale, or the listing agent receives and presents to the owner any enforceable offer from a ready, able, and willing buyer on terms authorized by the listing or accepted by the owner. The exclusive right to sell listing may provide for compensation of the listing agent if the property is sold within a specified period after termination of the listing to anyone with whom the agent has had negotiations before that termination.

(2) An "exclusive agency listing" is the same as an "exclusive right to sell listing," except that the owner reserves the right to sell directly but not through any other agent and, in that event, without obligation to pay compensation to the agent.

(3) An "open listing" is a listing which grants no exclusive rights or priorities to the listing agent, and a commission is payable to the agent only if the agent procures and presents to the owner an enforceable offer from a ready, able, and willing buyer on the terms authorized by the listing or accepted by the owner, before the property is otherwise sold either through another agent or by the owner directly and before the listing expires by its terms or is revoked.

(4) A "probate listing" is a contract conforming to Section 760 of the Probate Code.

(f) A "listing agent" is one who has obtained a listing of property of the kind in respect of which he or she is authorized by law to act as an agent for compensation.

(g) A "selling agent" is an agent participant in a multiple listing service who acts in cooperation with a listing agent and who sells, or finds and obtains a buyer for, the property.

(h) "Sold" includes leased and exchanged. A property is sold when a legally binding commitment to sell the property comes into existence.

1087. A multiple listing service is a facility of cooperation of agents, operating through an intermediary which does not itself act as an agent, through which agents establish express or implied legal relationships with respect to listed properties. If an open listing is placed in the multiple listing service, the total compensation that the owner is to pay shall go to the selling agent who procures an enforceable offer from a ready, able, and willing buyer on the terms accepted by the owner. An open listing need specify no compensation to the selling agent, but may state that the compensation is to be negotiated between the selling agent and the owner.

1088. A listing may not be placed in a multiple listing service unless authorized or directed by the owner in the listing.

If an agent places a listing in the multiple listing service for compensation or in expectation of compensation, that agent shall be responsible for the truth of all representations and statements in the listing of which that agent had knowledge or reasonably should have had knowledge to anyone injured by their falseness or inaccuracy.

1089. An open listing may contain an agreement by the owner to pay the listing agent compensation in any amount, at any time, and for any services, other than for selling the property or procuring or finding a buyer, as the agreement may specify.

1090. Nothing in this article shall preclude a listing agent from also being the selling agent.

CHAPTER 548

An act to amend Section 3332 of, and to add Article 7 (commencing with Section 4200) to Chapter 6 of Part 3 of Division 3 of, the Food and Agricultural Code, and to amend Section 830.3 of, and to add Section 1463.15 to, the Penal Code, relating to the California Exposition and State Fair, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board has authority to do any of the following:

(a) Contract.

(b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a savings and loan association account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds appropriated to the California Exposition and State Fair pursuant to subdivision (a) of Section 19622 of the Business and Professions Code. The Department of Finance shall audit the account at the end of each fiscal year.

(e) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair.

(f) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures.

(g) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(h) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.3 of the Penal Code. A member of the California State Police Division may be employed as such a marshal or police officer while off duty from his or her regular employment, subject to such conditions as may be set forth by the Chief of the California State Police. At least 75 percent of the persons appointed pursuant to this subdivision must possess the basic certificate issued by the Commission on Peace Officer Standards and Training. The

remaining 25 percent may be appointed if the person has completed a Peace Officer Standards and Training certified academy or possesses a Level One Reserve Certificate (as defined in Section 832.6 of the Penal Code).

SEC. 1.5. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board has authority to do any of the following:

(a) Contract.

(b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a savings and loan association account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds appropriated to the California Exposition and State Fair pursuant to subdivision (a) of Section 19622 of the Business and Professions Code. The Department of Finance shall audit the account at the end of each fiscal year.

(e) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair.

(f) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures.

(g) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(h) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.3 of the Penal Code. A member of the California State Police Division may be employed as such a marshal or police officer while off duty from his or her regular employment, subject to such conditions as may be set forth by the Chief of the California State Police. At least 75 percent of the persons appointed pursuant to this subdivision must possess the basic certificate issued by the Commission on Peace Officers Standards and Training. The remaining 25 percent may be appointed if the person has completed a Peace Officer Standards and Training certified academy or possesses a Level One Reserve Certificate (as defined in Section 832.6 of the Penal Code).

(i) Lease, with the approval of the Department of General Services, any of its property for any purpose for any period of time.

(j) Use or manage any of its property, with the approval of the Department of General Services, jointly or in connection with any lessee or sublessee, for any purpose approved by the board.

SEC. 2. Article 7 (commencing with Section 4200) is added to

Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code, to read:

Article 7. 52nd District Agricultural Association and the California Exposition and State Fair

4200. The Legislature finds and declares that the 52nd District Agricultural Association has contributed over three hundred thousand dollars ($300,000) towards the construction and development of a horse show arena located on the site of the California Exposition and State Fair. The Legislature further finds and declares that, since the transfer from the former fair site of the 52nd District Agricultural Association located in Galt, the association has not had a permanent fair site of its own and that it is in the public interest that the association continue to carry out its activities at the site of the California Exposition and State Fair and that the association and the California Exposition and State Fair maintain a harmonious relationship.

4201. (a) Notwithstanding any other provisions of law, the 52nd District Agricultural Association shall have the right to use each year, during its annual spring fair and fall horse show, the horse show arena and other related facilities of the California Exposition and State Fair, or an alternative mutually acceptable to both parties. The association shall adhere to the standard fee policy of the California Exposition and State Fair for all events. In order to provide incentive for maximum efficiency and cooperation, all subordinate contracts occurring as a result of the association's use of facilities as provided herein shall be based first on equal recovery of costs by both parties, and thereafter all annualized net operating revenues shall be divided equally, with the exceptions of concessions, souvenirs, novelties, and parking which shall remain at the sole discretion of the California Exposition and State Fair. The California Exposition and State Fair shall provide approximately 1,000 square feet of permanent office space at no cost to the association. Adequate notice shall be given to the California Exposition and State Fair of any use proposed by the association. During all association events, the association shall compensate the California Exposition and State Fair for the services, utilities, and equipment used during its events pursuant to the State Administrative Manual.

(b) During the period of use of the facilities of the California Exposition and State Fair by the association, all capital improvement entitlements accruing to the association shall be expended on the facilities of the California Exposition and State Fair in accordance with the Capital Improvements and Maintenance Master Plan of the facility.

4202. In the event of a dispute between the 52nd District Agricultural Association and the California Exposition and State Fair, the Division of Fairs and Expositions shall represent the interests of the association. If mediation of any matter fails to reach a consensus,

the Department of General Services shall arbitrate all matters on the basis of the best economic interests of the state and the decision of the department in the matter shall be final. Reasonable notice shall be given by the department to all parties to a disputed matter and an opportunity to present evidence shall be provided to all parties. Arbitration costs shall be shared equally between the parties.

SEC. 2.5. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of the peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, and designated by the Director of Consumer Affairs, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in that section.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in that section.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of the peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section

13104 of that code.

(g) Inspectors of the food and drug section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in that section.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of the peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, provided that the primary duty of the peace officer shall be the enforcement of the law relating to the duties of the peace officer's department or office.

(j) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and the investigators as designated by the chief, provided that the primary duty of the investigators shall be enforcement of the provisions of Section 556 of the Insurance Code.

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in that section.

SEC. 3. Section 1463.15 is added to the Penal Code, to read:

1463.15. The California State Fair Police Special Account in the General Fund is hereby established. All moneys in the fund shall be used by the Board of Directors of the California Exposition and State Fair, upon appropriation by the Legislature, solely for law enforcement activities, training of personnel, and safety equipment, for marshals and police appointed pursuant to Section 3332 of the Food and Agricultural Code.

Notwithstanding the provisions of Section 1463, out of moneys deposited with the Treasurer of Sacramento County or any other county in which there is property under the control of the California Exposition and State Fair, pursuant to Section 1463, there shall be transferred, first, once a month, to the California State Fair Police Special Account in the General Fund an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction or upon the forfeitures of bail from any person arrested or notified by marshals or police appointed pursuant to Section 3332 of the Food and Agricultural Code and charged with a violation of this code, or the Health and Safety Code, Vehicle Code, or Welfare and Institutions Code, which occurred on the grounds or

premises of the California Exposition and State Fair or any other property under the control of the California Exposition and State Fair, and an amount equal to the remaining 50 percent shall be transferred into the General Fund of Sacramento County.

The Board of Directors of the California Exposition and State Fair and Sacramento County, or any other county in which there is property under the control of the California Exposition and State Fair may by mutual agreement adjust the percentages of fines and forfeitures to be received by the California State Fair Police Special Account in the General Fund, and the county respectively. In the absence of any such agreement, the percentages fixed by this section shall prevail.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act will provide additional revenue to the local agency which shall be used to provide for any costs which may be incurred pursuant to this act.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 2442 are both chaptered and become effective, both bills amend Section 3332 of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill 2442, that Section 3332 of the Food and Agricultural Code, as amended by Section 1 of Assembly Bill 2442 be further amended on the effective date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 3332 proposed by this bill. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 2442 are both chaptered and become effective, both bills amend Section 3332, and this bill is chaptered after Assembly Bill 2442, in which case Section 1.5 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

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

Two statutes were enacted in 1980 by the Legislature relating to marshals and police employed by the California Exposition and State Fair resulting in obsolete references in the law concerning these peace officers. In order to clarify any possible ambiguity concerning the appointment and authority of these peace officers, and in order that the 52nd District Agricultural Association may use specified facilities of the California Exposition and State Fair as soon as possible, it is necessary for this act to go into effect immediately.

CHAPTER 549

An act to add Sections 8029.5, 10012, 12826, and 16487 to the Public Utilities Code, and to add Section 22124 to the Water Code, relating to electricity.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 8029.5 is added to the Public Utilities Code, to read:

8029.5. No person shall place, erect, or maintain on any pole any transformer, capacitor, or other electrical device containing polychlorinated biphenyls for transforming electric current, when the pole or transformer is required to be marked pursuant to applicable regulations of the United States Environmental Protection Agency, unless the person owning or controlling the pole on which the device is situated, upon request of any fire protection agency within the person's electrical service area, either marks the pole with a reflective band specified by the fire protection agency or furnishes to the fire protection agency the location of every pole within the fire protection agency on which such a device is located, at the person's option.

SEC. 2. Section 10012 is added to the Public Utilities Code, to read:

10012. Every public utility shall comply with Section 8029.5.

SEC. 3. Section 12826 is added to the Public Utilities Code, to read:

12826. Every district shall comply with Section 8029.5.

SEC. 4. Section 16487 is added to the Public Utilities Code, to read:

16487. Every district shall comply with Section 8029.5.

SEC. 5. Section 22124 is added to the Water Code, to read:

22124. Every district furnishing electrical power shall comply with Section 8029.5 of the Public Utilities Code.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act and the only other costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 550

An act to add Section 4707 to the Civil Code, relating to child support.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 4707 is added to the Civil Code, to read:

4707. In any case in which the support of a minor child is at issue, the court may, upon a showing of good cause, order a separate trial on that issue. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date. If the court has also ordered a separate trial on the issue of custody pursuant to Section 4600.6, the two issues shall be tried together.

CHAPTER 551

An act to amend Sections 6701 and 31680.2 of the Government Code, relating to counties, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 6701 of the Government Code is amended to read:

6701. If January 1st, January 15th, February 12th, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution provide that an alternate day shall be a holiday for the employees of the county and the superior, municipal, and justice courts in the county.

SEC. 2. Section 31680.2 of the Government Code is amended to read:

31680.2. Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him, for not to exceed 90 working days in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member

of this system or to terminate or suspend his retirement allowance, and no deductions shall be made from his salary as contributions to this system.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There is a critical shortage of nurses in Los Angeles County. In order to allow the county to hire retired nurses for a limited period to relieve this shortage, and in order to coordinate certain court holidays with other county holidays to avoid the unnecessary overtime work, it is necessary that this act become effective immediately.

CHAPTER 552

An act to amend, repeal, and add Section 8183 of the Fish and Game Code, relating to fish.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 8183 of the Fish and Game Code is amended to read:

8183. No anchovies may be taken for any purpose in Humboldt Bay, except under the following conditions:

(a) Anchovies may be taken for live bait only between September 1 and December 1. Anchovies may only be taken by the operator of a vessel for use in his or her own fishing operation, except that the operator may make incidental sales of anchovies so taken to local sport fishermen for their use as bait.

The provisions in this subdivision shall not prevent the cooperative effort of two or more vessel operators or their crews working together with one net if each operator has complied with the

notification requirement contained in subdivision (b).

(b) An observer who is an employee of the department shall inspect any bait operation and shall be authorized to halt that operation in the event that the operation cannot be conducted without adversely affecting the game species of the bay. Notification of all bait operations shall be dispatched so as to be received by the department at least 12 hours prior to the commencement of the operation.

(c) Anchovies may be taken in Humboldt Bay only north of a line extending through channel markers 9 and 10 in Humboldt Bay.

(d) The seasonal take of anchovy shall not exceed five tons, plus the additional amount, if any, that the department may determine, upon observation, may be taken in any given season without damage to the fisheries. As a condition of authorizing the additional amount over five tons, the department shall first find that anchovies are not available in sufficient quantities to meet the needs of commercial fishermen in the waters off of Crescent City and shall so notify the Board of Supervisors of Humboldt County.

(e) Bait nets, as defined in Section 8780, shall be the only nets used to take anchovy.

(f) Any game fish caught incidentally in nets shall be released by use of a hand scoop net or by dipping the cork line.

On January 1, 1980, and annually thereafter, the department shall submit a report to the Legislature describing the status of the Humboldt Bay anchovy fishery. The report shall include an assessment of the environmental impact of the bait fishery on the marine resources of the bay, including any possible adverse effects thereon.

The commission shall promulgate any other regulation it deems necessary to protect the Humboldt Bay anchovy resource.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 2. Section 8183 is added to the Food and Agricultural Code, to read:

8183. No anchovies may be taken for any purpose in Humboldt Bay, except under the following conditions:

(a) Anchovies may be taken for live bait only between September 1 and December 1. Anchovies may only be taken by the operator of a vessel for use in his or her own fishing operation, except that the operator may make incidental sales of anchovies so taken to local sport fishermen for their use as bait.

(b) An observer who is an employee of the department shall inspect any bait operation and shall be authorized to halt that operation in the event that the operation cannot be conducted without adversely affecting the game species of the bay. Notification of all bait operations shall be dispatched so as to be received by the department at least 12 hours prior to the commencement of the operation.

(c) Anchovies may be taken in Humboldt Bay only north of a line extending through channel markers 9 and 10 in Humboldt Bay.

(d) The seasonal take of anchovy shall not exceed five tons.

(e) Bait nets, as defined in Section 8780, shall be the only nets used to take anchovy.

(f) Any game fish caught incidentally in nets shall be released by use of a hand scoop net or by dipping the cork line.

On January 1, 1980, and annually thereafter, the department shall submit a report to the Legislature describing the status of the Humboldt Bay anchovy fishery. The report shall include an assessment of the environmental impact of the bait fishery on the marine resources of the bay, including any possible adverse effects thereon.

The commission shall promulgate any other regulation it deems necessary to protect the Humboldt Bay anchovy resource.

This section shall become operative on January 1, 1988.

CHAPTER 553

An act to amend Sections 1463.10 and 1463.13 of, and to add Section 1463.20 to, the Penal Code, relating to the disposition of fines and forfeitures.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 1463.10 of the Penal Code is amended to read:

1463.10. Notwithstanding the provisions of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be credited, once a month, to any community service district for which the county treasurer is the depositary an amount equal to 86 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested or notified by a member of the police department or fire department of such district, and an amount equal to the remaining 14 percent shall be transferred into the general fund of the county.

SEC. 1.5. Section 1463.13 of the Penal Code is amended to read:

1463.13. Notwithstanding the provisions of Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred, once a month to the treasurer of any port district or harbor district in the county for deposit in the district fund, an amount equal to 20 percent of all fines and forfeitures collected during the preceding month upon the conviction of, or upon the forfeiture of bail by, any person arrested or issued a citation

by any of the persons designated in Section 6070.6 or 6309.6 of the Harbors and Navigation Code and charged with a violation of any provision of an ordinance of a port district or harbor district committed on property or waters owned or controlled by the district within the county, and the remaining amount shall be transferred into the general fund of the county and allocated as provided in Section 1463.

SEC. 2. Section 1463.20 is added to the Penal Code, to read:

1463.20. Notwithstanding the provisions of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be credited, once a month, to any fire protection district for which the county treasurer is the depositary an amount equal to 86 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested or notified by an officer of such district, an amount equal to the remaining 14 percent shall be transferred into the general fund of the county.

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

CHAPTER 554

An act to amend Section 23826.8 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 24, 1982 Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 23826.8 of the Business and Professions Code is amended to read:

23826.8. Notwithstanding any other provision of law, the director may authorize the conversion of any on-sale general license for seasonal business to an on-sale general license if the on-sale general license for seasonal business was originally issued before May 1, 1982, or if an application for original issuance of such a license was filed before May 1, 1982. An application for conversion shall be accompanied by the fee required by Section 23954.5 for an on-sale general license. The department shall not accept any applications for original issuance of an on-sale general license for seasonal business on or after January 1, 1983.

An on-sale general license for seasonal business which is converted to an on-sale general license under this section may not be transferred for a period of two years from the date of issuance, except as provided in Section 24071, and except when the department determines that the transfer is necessary to prevent undue hardship. The purchase price or consideration that may be paid by a transferee or received by a transferor of an on-sale general license created by conversion under this section shall not exceed six thousand dollars ($6,000), except that after a period of five years from the date of issuance of the license there shall be no restriction as to the purchase price or consideration that may be paid by a transferee or received by a transferor.

CHAPTER 555

An act to amend Section 987.87 of the Military and Veterans Code, relating to veterans' farm and home loans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 987.87 of the Military and Veterans Code is amended to read:

987.87. (a) The department shall establish the actual interest rate to be paid. To this end, the department, by a two-thirds vote of California Veterans Board members and with the approval of the Veterans' Finance Committee of 1943, is empowered to establish a uniform rate of interest payable upon the amount remaining unpaid under any veteran's purchase contract executed on or after September 26, 1974. The board and the committee shall periodically, at least once each year, make a finding as to the rate of interest to be charged, determined by a floating rate based upon the actual cost of general obligation bond and revenue bond sales, plus a certain percent for administrative costs to be determined annually by the board and committee, taking into consideration the current value of money, the solvency of the Veterans' Farm and Home Building Fund of 1943, and the interest paid on any participation contracts to which the interest of the department may be subject. The board and the committee may raise or lower the effective rate of interest payable under such contracts annually as they deem to be for the best interests of the department, as well as the contractholders, if in so doing such action is made applicable alike to any and all such contracts, and 90 days' advance notice is given of the time when the new rate of interest is to become effective. The interest rate shall not be raised so that the effective date of a higher rate of interest occurs

more than once in any calendar year, unless the board and committee, by a two-thirds vote of the members of each, make a finding that an additional increase in the interest rate is necessary to enable the department to maintain the financial solvency of the fund or to meet its obligations to bondholders or purchasers.

(b) The total amount of any installment payment shall be raised or lowered to reflect any change in the effective rate of interest. The department may, however, adjust or postpone any installment payment for good cause pursuant to Section 987.71 and, for these purposes, good cause shall include a consideration of whether a purchaser's financial circumstances are such that an increased installment payment would be excessively burdensome. The department shall include notice of this provision in the 90 days' advance notice required under subdivision (a).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Under present economic conditions, when the interest rate on a Cal-Vet purchase contract is raised to reflect increasing costs of bond funds and to permit the Department of Veterans Affairs to thereby accumulate sufficient monthly debt service receipts and thereby continue the financial solvency of the Cal-Vet program, many veteran purchasers elect the statutory option of extending their Cal-Vet contract period, thus denying the department the additional funds needed. In order to eliminate this option so as to prevent the possibility of default or the need to unreasonably or artificially inflate the Cal-Vet interest rate, it is necessary that this act take effect immediately.

CHAPTER 556

An act to amend Section 26227 of the Government Code, relating to counties.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 26227 of the Government Code is amended to read:

26227. The board of supervisors of any county may appropriate and expend money from the general fund of the county to establish county programs or to fund other programs deemed by the board of supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education and

legal services, and the needs of physically, mentally and financially handicapped persons and aged persons.

The board of supervisors may contract with other public agencies or private agencies or individuals to operate such programs which the board of supervisors determines will serve public purposes. In the furtherance of any such program, the board of supervisors may make available to a public agency, nonprofit corporation, or nonprofit association any real property of the county which is not, and during the time of possession, will not be needed for county purposes, to be used to carry out such programs, upon terms and conditions determined by the board of supervisors to be in the best interests of the county and the general public, without complying with any other provisions of this code relating to leasing or granting the use of county property.

CHAPTER 557

An act to add and repeal Sections 24007 and 24212 of the Education Code, relating to the State Teachers' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 24007 is added to the Education Code, to read:

24007. Upon retirement for service after the operative date of this section, any member who is an employee of a community college with 25 years of credited service may retire at age 50 or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service with the allowance reduced by one-quarter of 1 percent for each full month or fraction of a month which will elapse until the member would have reached age 55 and one-half of 1 percent for each full month or fraction thereof between age 55 and age 60.

This section shall not be applicable to any school district or other employing agency until such district or agency notifies the board, in writing of its election to be subject thereto.

This section shall become operative on January 1, 1983, and shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 2. Section 24212 is added to the Education Code, to read:

24212. The board shall develop, adopt, and implement an additional alternative retirement plan which will allow a school district or other employing agency to permit those members with 30

years of credited service that the school district or agency deems appropriate to retire at age 55 or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service with the allowance reduced by one-quarter of 1 percent for each full month or fraction of a month which will elapse until the member would have reached age 60 if the member retires on and after June 1, 1979.

The employing school district or other employing agency shall pay the amount which is determined by the board to be the present value of the benefits provided under this section. The board shall permit such payments to be made over a three-year period in equal amounts. Interest shall be charged on the unpaid balance at a rate approximating the average yield on moneys invested by the board during the previous year from the effective date of the member's retirement.

This section shall become operative on July 1, 1982, and shall remain in effect only until July 1, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends such date.

SEC. 2.5. It is the intent of the Legislature that if this bill is not enacted by June 30, 1982, this act shall be construed as becoming operative on July 1, 1982.

SEC. 3. The Legislative Analyst shall report to the Legislature by January 1, 1985, on the fiscal effects of the participation by school districts in the early retirement programs extended by this act and the desirability of further extensions.

SEC. 3.5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the benefits of this act to continue to provide school districts and other employing agencies with a method to solve personnel management problems which may arise, it is necessary that this act take effect immediately.

CHAPTER 558

An act to amend Section 214.6 of, and to add Section 201.2 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 201.2 is added to the Revenue and Taxation Code, to read:

201.2. (a) A nonprofit corporation which has contracted with the board of supervisors pursuant to Section 25905, 25906, 25907, or 25908 of the Government Code for the conduct of an agricultural fair, shall be deemed to be an agency of the county for purposes of this part and for no other purpose, and county-owned property, including possessory interests in that property, used or possessed by the nonprofit corporation in the conduct of an agricultural fair shall be exempt from taxation under subdivision (b) of Section 3 of Article XIII of the State Constitution.

(b) Any tax which is levied as a result of an assessment made of property described in subdivision (a) after January 1, 1982, shall, if unpaid, be canceled and, if paid, be refunded.

(c) This section shall not be construed to exempt any profit-making organization or concessionaire from any property tax, including a property tax on a possessory interest, for the use of property which is used by a nonprofit corporation for the conduct of a fair.

SEC. 2. Section 214.6 of the Revenue and Taxation Code is amended to read:

214.6. (a) Property which is owned by an organization meeting the requirements of subdivision (b) of Section 4 of Article XIII of the State Constitution and complying with the requirements of subdivisions (1) to (7), inclusive, of Section 214 and which is leased to an exempt governmental entity for the purpose of conducting an activity which if conducted by the owner would qualify the property for an exemption, or leased to a community college, state college, or state university for educational purposes, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 of Article XIII of the State Constitution if:

(1) The total income received by the organization in the form of rents, fees or charges from such lease does not exceed the ordinary and usual expenses in maintaining and operating the leased property; and

(2) With respect to entities which are political subdivisions of the state, the property is located within the boundaries of the exempt governmental entity leasing the same.

(b) To claim the exemption provided by this section for property

leased by a church to a school district, the church need only file a lessor's exemption claim and affirm each of the following:

(1) The total income received by the organization in the form of rents, fees or charges from the lease does not exceed the ordinary and usual expenses in maintaining and operating the leased property.

(2) With respect to entities which are political subdivisions of the state, the property is located within the boundaries of the exempt governmental entity leasing the same.

SEC. 3. The Legislature finds and declares that the type of property described in Section 201.2 of the Revenue and Taxation Code, as added by this act, is property of a type which was not being assessed and taxed on January 1, 1973. Therefore, there shall be no reimbursement of local government of any property tax loss, and the State Board of Control shall accept no claims for reimbursement in that regard.

CHAPTER 559

An act to amend Section 664.5 of the Code of Civil Procedure, relating to notice of judgment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 664.5 of the Code of Civil Procedure is amended to read:

664.5. (a) In any contested action or special proceeding in a superior court, other than a proceeding for voidable marriage pursuant to the Family Law Act (Title 2 (commencing with Section 4400) or dissolution of marriage, legal separation and summary dissolution pursuant to Title 3 (commencing with Section 4500) of the Civil Code), the party submitting an order or judgment for entry shall prepare and mail a copy of the notice of entry of judgment to all parties who have appeared in the action or proceeding and shall file with the court the original notice of entry of judgment together with the proof of service by mail.

(b) Promptly upon entry of judgment in a contested action or special proceeding in a municipal or justice court, the clerk of the court shall mail notice of entry of judgment to all parties who have appeared in the action or special proceeding and shall execute a certificate of such mailing and place it in the court's file in the cause.

(c) For purposes of this section, "judgment" includes any judgment, decree, or signed order from which an appeal lies.

Upon order of the court in any action or special proceeding, the clerk shall mail notice of entry of any judgment or ruling, whether

or not appealable.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correct ambiguities in the law with regard to the preparation of notices of judgment in municipal and justice courts, and to alleviate technical problems regarding appeals in dissolution cases, it is necessary that this act take effect immediately.

CHAPTER 560

An act to amend Section 409.55 of, and to add Section 409.8 to, the Code of Civil Procedure, relating to lis pendens.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 409.55 of the Code of Civil Procedure is amended to read:

409.55. At any time after notice of pendency of an action has been recorded pursuant to Section 409 or other law, the notice may be withdrawn by recording in the office of the county recorder in which the notice of the pendency of the action was recorded a notice of withdrawal executed by the party who recorded the notice of pendency of the action or by the party's successor in interest.

Upon recordation of the notice of withdrawal in the manner provided by this section, neither the notice of the pendency of the action nor any information derived therefrom, prior to the recording of a certified copy of the judgment or decree issued therein, shall constitute constructive or actual notice of any of the matters contained therein, or any of the matters relating to such action, or create any duty of inquiry in any person thereafter dealing with the property described therein. Such notice of withdrawal shall be acknowledged.

SEC. 2. Section 409.8 is added to the Code of Civil Procedure, to read:

409.8. Upon the withdrawal of a notice of pendency of an action pursuant to Section 409.55 or upon recordation of a certified copy of an order expunging a notice of pendency of an action pursuant to Section 409.1 or 409.2, no person, except a person who is a nonfictitious party to the action at the time of the recording of the withdrawal or order of expungement, who thereafter becomes, by conveyance recorded prior to the recording of a certified copy of the judgment or decree issued therein, a purchaser, transferee, mortgagee, or other encumbrancer for a valuable consideration of

any interest in the real property subject to the action shall be deemed to have actual knowledge of the action or any matter claimed, alleged, or contended therein, irrespective of whether such person actually possessed actual knowledge of the action or matter and irrespective of when or how such knowledge was obtained. It is the intention of the Legislature that this section shall provide for the absolute and complete free transferability of real property after the expungement or withdrawal of a notice of pendency of action.

CHAPTER 561

An act to amend Sections 1955, 1956, 1957, and 1958 of the Civil Code, relating to bailments of personal property.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 24, 1982.]

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

SECTION 1. Section 1955 of the Civil Code is amended to read:

1955. Except as otherwise agreed by the lessor and the lessee in lease agreements for a term of more than 20 days, one who leases personal property must deliver it to the lessee, secure his or her quiet enjoyment thereof against all lawful claimants, put it into a condition fit for the purpose for which he or she leases it, and repair all deteriorations thereof not occasioned by the fault of the lessee and not the natural result of its use.

SEC. 2. Section 1956 of the Civil Code is amended to read:

1956. Except as otherwise agreed by the lessor and lessee, a lessee of personal property must bear all such expenses concerning it as might naturally be foreseen to attend it during its use by him or her, and all other expenses must be borne by the lessor.

SEC. 3. Section 1957 of the Civil Code is amended to read:

1957. If a lessor fails to fulfill his or her obligations, as prescribed by Section 1955, the lessee, after giving him or her notice to do so, if the notice can conveniently be given, may expend any reasonable amount necessary to make good the lessor's default, and may recover such amount from him or her.

SEC. 4. Section 1958 of the Civil Code is amended to read:

1958. At the expiration of the term for which personal property is leased, the lessee must return it to the lessor at the place contemplated by the parties at the time of leasing; or, if no particular place was so contemplated by them, at the place at which it was at that time.

SEC. 5. Except as Section 1 relates to lease agreements for a term of not more than 20 days, Sections 1 to 4, inclusive, of this act do not constitute a change in, but are declaratory of, the existing law.

CHAPTER 562

An act to add and repeal Section 23358.3 to the Business and Professions Code, relating to alcoholic beverages, and making an appropriation therefor.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 23358.3 is added to the Business and Professions Code, to read:

23358.3. A winegrape growers' storage license authorizes the holder to store bulk wine, made from grapes produced by the holder, on the premises of a licensed winegrower and to sell that wine, within this state, to winegrowers, distilled spirits manufacturers, and vinegar producers.

The annual fee for a winegrape growers' storage license shall be fifty-six dollars ($56).

This section shall be operative until January 1, 1986, and on that date is repealed.

CHAPTER 563

An act to amend, repeal, and add Section 467 of the Military and Veterans Code, relating to the California National Guard, and making an appropriation therefor.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 467 of the Military and Veterans Code is amended to read:

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his hand directed to any sheriff, marshal, or constable of the county, commanding him to levy and collect the fines and penalties, together with the costs, upon and out of the property of the person against whom the fine or penalty is imposed. The warrant shall be executed and renewed in the same manner as executions from the justices' courts.

All fines collected under this section or imposed and collected

under Section 450.1 shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and shall be deposited by the commanding officer into the AWOL Abatement Program Fund, which is hereby created in the State Treasury. All money in the AWOL Abatement Program Fund is hereby appropriated to the Military Department for the 1983–84 fiscal year for programs to reduce the rate of absence without leave among members of the California National Guard.

This section shall remain in effect only until July 1, 1984, and on that date is repealed unless a later enacted statute which is chaptered on or before that date deletes or extends that date.

SEC. 2. Section 467 is added to the Military and Veterans Code, to read:

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his hand directed to any sheriff, marshal, or constable of the county, commanding him to levy and collect the fines and penalties, together with the costs, upon and out of the property of the person against whom the fine or penalty is imposed. The warrant shall be executed and renewed in the same manner as executions from the justices' courts.

All fines collected shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and accounted for by the commanding officer in the same manner as other state funds.

This section shall become operative on July 1, 1984.

CHAPTER 564

An act to amend Sections 25100, 25104, 25111, 25165, and 25608 of the Corporations Code, relating to securities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public

entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United

States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when he finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or

supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for a reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or one entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(l) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, he may in his discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner to post a bond.

(2) The commissioner may, in his discretion, (A) make such public or private investigations within or outside of this state as he deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code

or to aid in the enforcement of such Section 1280.7, and (B) publish information concerning the violation of such Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank

incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 2. Section 25104 of the Corporations Code is amended to read:

25104. The following transactions are exempted from the provisions of Section 25130:

(a) Any offer or sale of a security by the bona fide owner thereof for his own account if the sale (1) is not accompanied by the publication of any advertisement and (2) is not effected by or through a broker-dealer in a public offering.

(b) Any offer or sale effected by or through a licensed broker-dealer pursuant to an unsolicited order or offer to buy. For the purpose of this subdivision (b) an inquiry regarding a written bid for a security or a written solicitation of an offer to sell a security made by another broker-dealer within the previous 60 days, shall not be considered the solicitation of an order or offer to buy.

(c) Any offer or sale to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(d) Any transaction or agreement between a person on whose behalf an offering is made and an underwriter or among underwriters, if the sale of the securities is exempt from qualification at the time of or qualified prior to distribution in this state, if any.

(e) Any offer or sale of any security by or for the account of a bona fide secured party selling the security in the ordinary course of

business to liquidate a bona fide debt.

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

(g) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of that act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(h) Any offer or sale of a security if a qualification under Chapter 2 (commencing with Section 25110) of this part for any securities of the same class has become effective within 18 months prior to such offer or sale or if a qualification under Chapter 3 (commencing with Section 25120) or Chapter 4 (commencing with Section 25130) of this part for any securities of the same class has become effective within 12 months prior to such offer or sale, provided no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law with respect to such qualification, and, provided further, that this exemption does not apply to such securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to an exemption under Regulation A under that act if the aggregate offering price of the securities offered under such exemption exceeds fifty thousand dollars ($50,000). The commissioner may, by rule or order, withhold this exemption with respect to securities qualified only pursuant to a limited offering qualification.

SEC. 3. Section 25111 of the Corporations Code is amended to read:

25111. (a) Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be qualified by coordination under this section either in an issuer or nonissuer transaction.

(b) Except as provided in subdivision (d), an application for qualification under this section shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (1) a copy of the registration statement under the Securities Act of 1933, together with all exhibits (other than exhibits incorporated by reference and those specified by rule of the commissioner, unless requested by the commissioner); (2) an undertaking to forward to the commissioner all future amendments to the registration statement under the Securities Act of 1933, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs; and (3) such other information as may be required to evidence compliance with any rules of the commissioner. Such application must be filed with the commissioner not later than the fifth business

day following filing of the registration statement with the Securities and Exchange Commission, unless such time is extended by rule or order of the commissioner.

(c) Except as provided in subdivision (d), qualification of the sale of securities under this section automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application as amended) at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no stop order or order under subdivision (a) of Section 25143 is in effect under this law; (2) the application has been on file with the commissioner for at least 10 days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two business days or such shorter period as the commissioner permits by rule or order and the offering is made within those limitations. The applicant shall promptly notify the commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a posteffective amendment to the application containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, interest, dividend or conversion rates, call prices and other matters related to the offering price. Upon failure to receive the required notification and posteffective amendment with respect to the price amendment, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the application for qualification or suspending its effectiveness until compliance with this subdivision, if he promptly notifies the applicant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the applicant proves compliance with the requirements of this subdivision as to notice and posteffective amendment, the stop order is void as of the time of its entry. The commissioner may by rule or order waive either or both of the conditions specified in clauses (2) and (3) of this subdivision. If the federal registration statement becomes effective before all the conditions in this subdivision are satisfied and they are not waived, the application for qualification automatically becomes effective as soon as all the conditions are satisfied. If the applicant advises the commissioner of the date when the federal registration statement is expected to become effective, the commissioner shall promptly advise the applicant by telephone or telegram, at the applicant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under Section 25140 or 25143; but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

(d) (1) An open-end investment company or a unit investment

trust which has previously qualified the sale of its securities pursuant to this section shall, in lieu of filing the application specified in subdivision (b), file pursuant to this subdivision if it has made no material change in its offering and if it is in compliance with all terms of its prior qualification. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (A) a statement that the applicant has made no material change in its offering and that it is in compliance with the terms of its qualification; and (B) a copy of its current registration statement under the Securities Act of 1933.

(2) A unit investment trust which has not previously applied to qualify the sale of its securities pursuant to this section but which is substantially the same as one or more unit investment trusts previously qualified under this section by the same sponsor, shall file pursuant to this subdivision if it can make the statements specified below. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (A) a statement that the applicant, in its organization, its plan of business, its securities and its offering, is substantially the same as a unit investment trust previously qualified under this section by the same sponsor; (B) a statement that such previously qualified unit investment trusts are in compliance with the terms of their qualifications and (C) a copy of its current registration statement under the Securities Act of 1933.

(3) If no stop order or orders under subdivision (a) of Section 25143 are in effect under this law, qualification of the sale of securities under this subdivision automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application) upon the day following the expiration of its prior qualification pursuant to this section or, if such qualification has expired, upon the first business day following the filing of the application pursuant to this subdivision. Nothing contained in this subdivision shall restrict the authority of the commissioner pursuant to Section 25140 or 25143.

SEC. 4. Section 25165 of the Corporations Code is amended to read:

25165. Every applicant for qualification of the sale of securities under this law or every person filing an application or request for or notice of an exemption from qualification (other than a California corporation or a person licensed as a broker-dealer in this state) shall file with the commissioner, in such form as prescribed by rule, an irrevocable consent appointing the commissioner or his or her successor in office to be the applicant's or person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the applicant or person or the successor,

executor or administrator thereof, which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous qualification under this law (or application for a permit under any prior law if the application under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at the last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

SEC. 5. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to clause 5 of subdivision (h) of Section 25102 and the fee for filing a notice pursuant to clause 4 of subdivision (f) of Section 25102, in addition to the fee prescribed in that clause, if applicable, is twenty-five dollars ($25).

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (j) of this section) is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand five hundred fifty dollars ($1,550).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner,

of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for such warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if such latter amount is not determinable at the time of qualification, such amount shall be the then value of such additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) One hundred dollars ($100) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities;

(2) One hundred dollars ($100) plus one-tenth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be sixty dollars ($60).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting

to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to such transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing such securities pursuant to subdivision (h) of Section 25102, is ten dollars ($10) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which such assessment is made. The pro rata share shall be the proportion which the broker-dealer's number of agents and offices in this state bears to the aggregate number of broker-dealer offices and agents in this state as shown by the annual reports to the commissioner. The pro rata share shall not include the costs of any examinations, audit, or investigation provided for in subdivision (r), unless they cannot be collected from the licensee examined, audited, or investigated.

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In the levying and collection of the assessment, a broker-dealer shall not be assessed for nor be permitted to pay less than one hundred fifty dollars ($150) per year.

(5) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to such broker-dealer. If, after such an order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension or surrender of a certificate shall not affect the powers of the

commissioner as provided in this division.

(p) The commissioner may by rule fix a fee of not to exceed twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year during the following calendar year. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding such hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his authority; provided, however, that such charges shall not be applicable to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

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

Unit investment trusts generally file an annual application to qualify the sale of their shares in California which will cover anticipated sales in California during the ensuing year. This act provides for a continuous registration process for a sponsor of unit investment trusts once it has initially qualified its securities for sale in this state. In order for the provisions of this act to apply to pending applications and applications which will be filed before the end of the year, it is necessary for this act to go into immediate effect.

CHAPTER 565

An act to add Section 14839.1 to the Government Code, relating to small businesses.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 14839.1 is added to the Government Code, to read:

14839.1. The department shall have sole responsibility for certifying and determining the eligibility of small businesses under this chapter.

CHAPTER 566

An act to add Section 16366.81 to the Government Code, relating to federal employment and training block grants.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 16366.81 is added to the Government Code, to read:

16366.81. It shall be the policy of this state to provide mechanisms for allocating federal employment and training block grant funds which maximize local control and coordination among local public and private agencies, as well as local business, labor and educational representatives.

CHAPTER 567

An act to add Section 52332 to the Education Code, relating to vocational education.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 52332 is added to the Education Code, to read:

52332. The State Department of Education shall annually, on or before March 1 of each year, submit to the Legislature a report on

the costs of a representative sample of individual programs offered at regional occupational centers and programs and on the relationship of these costs to the average daily attendance revenue limits in the regional occupational centers and programs examined by the study.

CHAPTER 568

An act to add Sections 472 and 27904 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1982 Filed with Secretary of State August 25, 1982]

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

SECTION 1. Section 472 is added to the Vehicle Code, to read:

472. A "pilot car" is a motor vehicle, except a motorcycle, motorized bicycle, or motorized quadricycle, which is used to escort one or more other vehicles, when required, due to the vehicles' size or character of load, in accordance with conditions set forth in a permit issued by the appropriate state agency or by a local authority.

SEC. 2. Section 27904 is added to the Vehicle Code, to read:

27904. There shall be displayed in a conspicuous place on both the right and left sides of a pilot car a sign showing the name of the company or the owner or driver of the pilot car. The sign shall also contain the business address and telephone number of the owner or driver. The letters of the sign shall be not less than 2½ inches in height and the lettering shall be in contrast to the color of the background upon which they are placed.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 569

An act to repeal and add Section 21651 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 21651 of the Vehicle Code is repealed.

SEC. 2. Section 21651 is added to the Vehicle Code, to read:

21651. (a) Whenever a highway has been divided into two or more roadways by means of intermittent barriers or by means of a dividing section of not less than two feet in width, either unpaved or delineated by curbs, lines, or other markings on the roadway, it is unlawful to do either of the following:

(1) To drive any vehicle over, upon, or across the dividing section.

(2) To make any left, semicircular, or U-turn with the vehicle on the divided highway, except through an opening in the barrier designated and intended by public authorities for the use of vehicles or through a plainly marked opening in the dividing section.

(b) It is unlawful to drive any vehicle upon a highway, except to the right of an intermittent barrier or a dividing section which separates two or more opposing lanes of traffic.

(c) A violation of subdivision (b) on a freeway is a misdemeanor.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 570

An act to amend Sections 19255 and 19994.9 of the Government Code, relating to state officers and employees.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 19255 of the Government Code is amended to read:

19255. A person shall not be assigned to perform the duties of any class other than that to which his or her position is allocated except as described in Section 19994.9.

SEC. 2. Section 19994.9 of the Government Code is amended to read:

19994.9. The State Personnel Board may prescribe rules governing the temporary assignment or loan of employees within an

agency or between agencies or jurisdictions for not to exceed two years for any of the following purposes:

(a) To provide training to employees.

(b) To enable an agency to obtain expertise needed to meet a compelling program or management need.

(c) To facilitate the return of injured employees to work.

These temporary assignments or loans shall be deemed to be in accord with the provisions of this part limiting employees to duties consistent with their class and may be used to meet minimum requirements for promotional as well as open examinations. An employee participating in such an arrangement shall have the absolute right to return to his or her former position. Any temporary assignment or loan of an employee made for the purpose specified in subdivision (b) shall be made only with the voluntary consent of the employee.

In addition, out-of-class experience obtained in a manner not described in this section may be used to meet minimum requirements for promotional as well as open examinations, only if it was obtained by the employee in good faith and was properly verified under standards prescribed by State Personnel Board rule.

CHAPTER 571

An act to amend Sections 11103, 11508, 11620, 11717, and 11812 of, and to add Sections 11508.1, 11620.1, and 11717.1 to, the Vehicle Code, relating to licenses.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 11103 of the Vehicle Code is amended to read:

11103. A driving school owner and an independent instructor licensed under Section 11105.5 shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driving instruction, insuring the liability of the driving school, the driving instructor, and any person taking instruction in at least the following amounts: one hundred thousand dollars ($100,000) for bodily injury to or death of one person in any one accident and, subject to the limit for one person, two hundred thousand dollars ($200,000) for bodily injury to or death of two or more persons in any one accident, and the amount of twenty thousand dollars ($20,000) for damage to property of others in any one accident.

The owner or instructor shall file evidence of that insurance coverage in the form of a certificate from the insurance carrier with the department, and the certificate shall stipulate that the insurance

shall not be canceled except upon 30 days' prior written notice to the department.

SEC. 2. Section 11508 of the Vehicle Code is amended to read:

11508. (a) Every special plate and license issued under this chapter shall be valid for a period of one year from the date of issuance. New plates and license for the ensuing year may be obtained by the person to whom any expired plates and license were issued upon application to the department and payment of the fee provided in this code.

(b) Every application for the renewal of special plates and license which expire pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the application form provided by the department and by payment of the full annual renewal fee for the plates and license.

SEC. 3. Section 11508.1 is added to the Vehicle Code, to read:

11508.1. In order to accomplish the conversion of the license from the term in effect on December 31, 1982, to the term prescribed in Section 11508, the director may either establish an initial renewal period of less than one year or extend the renewal period to more than one year during the conversion period, except that any new or reinstated license issued on or after January 1, 1983, shall be for the term prescribed in Section 11508.

SEC. 4. Section 11620 of the Vehicle Code is amended to read:

11620. (a) Every special plate and license issued under this chapter shall be valid for a period of one year from the date of issuance. New plates and a license for the ensuing year may be obtained by the person to whom any expired plates and license were issued upon application to the department and payment of the fee provided in this code.

(b) Every application for the renewal of special plates and license which expire pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the completed application form provided by the department and by payment of the full annual renewal fee for the plates and license.

SEC. 5. Section 11620.1 is added to the Vehicle Code, to read:

11620.1. In order to accomplish the conversion of the license from the term in effect on December 31, 1982, to the term prescribed in Section 11620, the director may either establish an initial renewal period of less than one year or extend the renewal period to more than one year during the conversion period, except that any new or reinstated license issued on or after January 1, 1983, shall be for the term prescribed in Section 11620.

SEC. 6. Section 11717 of the Vehicle Code is amended to read:

11717. (a) Every special plate and license issued under this chapter shall be valid for a period of one year from the date of issuance. New plates and license for the ensuing year may be obtained by the person to whom any expired plates and license were

issued upon application to the department and payment of the fee provided in this code.

(b) Every application for the renewal of special plates and license which expire pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the application form provided by the department and by payment of the full annual renewal fee for the plates and license.

SEC. 7. Section 11717.1 is added to the Vehicle Code, to read:

11717.1. In order to accomplish the conversion of the license from the term in effect on December 31, 1982, to the term prescribed in Section 11717, the director may either establish an initial renewal period of less than one year or extend the renewal period to more than one year during the conversion period, except that any new or reinstated license issued on or after January 1, 1983, shall be for the term prescribed in Section 11717.

SEC. 8. Section 11812 of the Vehicle Code is amended to read:

11812. (a) Every vehicle salesman shall, at time of employment, deliver to his employing dealer his salesman's license to be posted in a place conspicuous to the public on the premises where he is actually engaged in the selling of vehicles for the employing dealer.

(b) The license shall be displayed continuously during such employment. If a vehicle salesman's employment is terminated, the license shall be returned to the salesman.

(c) Every vehicle salesman shall report in writing to the department every change of residence address within five days of the change.

CHAPTER 572

An act to amend Sections 88091 and 81119 of, and to amend, add, and repeal Sections 88076, 88080, and 88084 of, the Education Code, relating to community college districts.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 88076 of the Education Code is amended to read:

88076. (a) The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service, as specified in subdivision (b). The employees and positions shall be known as the classified service. "To classify" shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining

reasonable relationships within occupational hierarchies, and preparing written class specifications.

(b) Exempt from the classified service shall be:

(1) Positions which require certification qualifications,

(2) Part-time playground positions,

(3) Full-time students employed part time,

(4) Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of this division and which is financed by state or federal funds,

(5) Apprentice positions,

(6) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87½ percent of the normally assigned time of the majority of employees in the classified service.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 2. Section 88076 is added to the Education Code, to read:

88076. The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service. The employees and positions shall be known as the classified service. Exempt from the classified service shall be:

(a) Positions which require certification qualifications.

(b) Part-time playground positions.

(c) Full-time students employed part time.

(d) Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 and which is financed by state or federal funds.

(e) Apprentice positions.

(f) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87½ percent of the normally assigned time of the majority of employees in the classified service.

This section shall become operative January 1, 1989.

SEC. 3. Section 88080 of the Education Code is amended to read:

88080. The commission shall prescribe, amend, and interpret, subject to this article, such rules as may be necessary to ensure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between the governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 4. Section 88080 is added to the Education Code, to read:

88080. The commission shall prescribe and amend, subject to this article, such rules as may be necessary to ensure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall be binding upon the governing board.

This section shall become operative January 1, 1989.

SEC. 5. Section 88084 of the Education Code is amended to read:

88084. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall appoint all employees paid from funds budgeted for the support of the commission and shall supervise the activities of those employees that are performed as a part of the functions of the commission. These

employees shall be appointed from eligibility lists established pursuant to the provisions of this article, be classified employees of the community college district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, including representation by the appropriate exclusive representative, if any.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 6. Section 88084 is added to the Education Code, to read:

88084. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall also appoint all other employees paid from funds budgeted for the support of the commission from eligibility lists established pursuant to the provisions of this article. Such employees shall be classified employees of the community college district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district.

This section shall become operative January 1, 1989.

SEC. 7. Section 88091 of the Education Code is amended to read:

88091. All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

Nothing contained in this section shall authorize the selection of eligible candidates in circumvention of the affirmative action programs of any community college district.

SEC. 8. Section 88119 of the Education Code is amended to read:

88119. Eligibility lists shall be established for a period of not less

than one year except that when a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before a year has expired.

Eligibility lists may be established for a period of six months upon the approval of the personnel commission so long as the six months' duration of such a list is noted in the recruitment bulletin announcing the examination. If a list is exhausted for appointments to current vacancies, through use and eligibles being unavailable, the commission may, upon the recommendation of the officer charged with certifying eligibles, and after due notice to eligibles who may have made themselves unavailable for appointment, terminate it before the expiration date.

A list may be extended for an additional period of one year or less in the discretion of the commission.

SEC. 9. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections because no new duties are required by this act.

CHAPTER 573

An act to amend Section 27356 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 27356 of the Vehicle Code is amended to read:

27356. This article shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

CHAPTER 574

An act to repeal Chapter 4 (commencing with Section 14700) of Division 6 of the Business and Professions Code, and to amend Sections 980, 981, 982, and 983 of the Civil Code, relating to copyright.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Chapter 4 (commencing with Section 14700) of Division 6 of the Business and Professions Code is repealed.

SEC. 2. Section 980 of the Civil Code is amended to read:

980. (a) (1) The author of any original work of authorship that is not fixed in any tangible medium of expression has an exclusive ownership in the representation or expression thereof as against all persons except one who orginally and independently creates the same or similar work. A work shall be considered not fixed when it is not embodied in a tangible medium of expression or when its embodiment in a tangible medium of expression is not sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration, either directly or with the aid of a machine or device.

(2) The author of an original work of authorship consisting of a sound recording initially fixed prior to February 15, 1972, has an exclusive ownership therein until February 15, 2047, as against all persons except one who independently makes or duplicates another sound recording that does not directly or indirectly recapture the actual sounds fixed in such prior sound recording, but consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate the sounds contained in the prior sound recording.

(b) The inventor or proprietor of any invention or design, with or without delineation, or other graphical representation, has an exclusive ownership therein, and in the representation or expression thereof, which continues so long as the invention or design and the representations or expressions thereof made by him remain in his possession.

SEC. 3. Section 981 of the Civil Code is amended to read:

981. (a) Unless otherwise agreed, an original work of authorship not fixed in any tangible medium of expression and in the creation of which several persons are jointly concerned, is owned by them in equal proportion.

(b) Unless otherwise agreed, an invention or design in the production of which several persons are jointly concerned is owned by them as follows:

(1) If the invention or design is single, in equal proportions.

(2) If it is not single, in proportion to the contribution of each.

SEC. 4. Section 982 of the Civil Code is amended to read:

982. (a) The owner of any rights in any original works of authorship not fixed in any tangible medium of expression may transfer the ownership therein.

(b) The owner of any invention or design, or of any representation or expression thereof, may transfer his or her

proprietary interest in it.

(c) Notwithstanding any other provision in this section, whenever a work of fine art is transferred, whether by sale or on commission or otherwise, by or on behalf of the artist who created it, or that artist's heir, legatee, or personal representative, the right of reproduction thereof is reserved to such artist or such heir, legatee, or personal representative until it passes into the public domain by act or operation of law, unless that right is expressly transferred by a document in writing in which reference is made to the specific right of reproduction, signed by the owner of the rights conveyed or that person's duly authorized agent. If the transfer is pursuant to an employment relationship, the right of reproduction is transferred to the employer, unless it is expressly reserved in writing. If the transfer is pursuant to a legacy or inheritance, the right of reproduction is transferred to the legatee or heir, unless it is expressly reserved by will or codicil. Nothing contained herein, however, shall be construed to prohibit the fair use of such work of fine art.

(d) As used in subdivision (c):

(1) "Fine art" means any work of visual art, including but not limited to, a drawing, painting, sculpture, mosaic, or photograph, a work of calligraphy, work of graphic art (including an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including crafts in clay, textile, fiber, wood, metal, plastic, and like materials), or mixed media (including a collage, assemblage, or any combination of the foregoing art media).

(2) "Artist" means the creator of a work of fine art.

(3) "Right of reproduction", at the present state of commerce and technology shall be interpreted as including, but shall not be limited to, the following: reproduction of works of fine art as prints suitable for framing; facsimile casts of sculpture; reproductions used for greeting cards; reproductions in general books and magazines not devoted primarily to art, and in newspapers in other than art or news sections, when such reproductions in books, magazines, and newspapers are used for purposes similar to those of material for which the publishers customarily pay; art films; television, except from stations operated for educational purposes, or on programs for educational purposes from all stations; and reproductions used in any form of advertising, including magazines, calendars, newspapers, posters, billboards, films or television.

(e) The amendments to this section made at the 1975–76 Regular Session shall only apply to transfers made on or after January 1, 1976.

SEC. 5. Section 983 of the Civil Code is amended to read:

983. If the owner of any invention or design intentionally makes it public, a copy or reproduction may be made public by any person, without responsiblily to the owner, so far as the law of this state is concerned.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 575

An act to add Section 25503.16 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 25503.16 is added to the Business and Professions Code, to read:

25503.16. (a) Nothing in this division shall prohibit the issuance or transfer of any retail onsale or offsale license to any person with respect to premises which are an integral part of the operations of a hotel or motel owned by, or operated by or on behalf of, the licensee notwithstanding that a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler holds the ownership of any interest, directly or indirectly, in the premises or in the retail licensee, provided that each of the following conditions is met:

(1) The hotel or motel consists of not less than 150 guestroom accommodations.

(2) No more than one-quarter of the total gross annual revenues of such hotel or motel is derived from the sale by such hotel or motel of alcoholic beverages.

(3) The retail licensee shall purchase no beer or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee shall purchase no alcoholic beverages for sale in this state from any wholesale licensee holding the ownership of any interest, directly or indirectly, in the premises or in the retail licensee.

(b) For purposes of this section, "hotel" and "motel" shall mean an establishment containing guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest; for purposes of this subdivision, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local

markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exception established by this section to the general prohibition against tied interests must be limited to its express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

CHAPTER 576

An act to amend Sections 5001, 5001.5, and 5002 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION. 1. Section 5001 of the Vehicle Code is amended to read:

5001. The department may issue license plates for vehicles exempt from registration fees in the same series as plates issued for nonexempt vehicles. The plates may be issued for a one-year period and only upon the certification of the department that the issuance of the plates has been requested by the head of a criminal justice or a law enforcement agency of a city, county, or state or federal department, that the vehicle is assigned to persons responsible for investigating actual or suspected violations of the law or the supervision of persons liberated from a state prison or other institution under the jurisdiction of the Department of Corrections by parole or the supervision of persons liberated from an institution under the jurisdiction of the Department of the Youth Authority by parole, and is intended for use in the line of duty.

SEC. 2. Section 5001.5 of the Vehicle Code is amended to read:

5001.5. The director may enter into agreements or arrangements with motor vehicle departments in other states to provide for a reciprocal exchange of regular series license plates for the purposes of and under the conditions provided in Sections 5001 and 5003.

SEC. 3. Section 5002 of the Vehicle Code is amended to read:

5002. The department may issue regular series plates to the Department of General Services for use on motor vehicles maintained within motor vehicle pools of state-owned vehicles when the vehicles are used for the purposes set forth in Section 5001, except that the Department of General Services shall not assign, dispatch, or otherwise make any of those vehicles available for use by any agency of the state except upon the certification of the department.

CHAPTER 577

An act to amend Section 31595 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982]

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

SECTION 1. Section 31595 of the Government Code is amended to read:

31595. All funds received by the county treasurer not required for current disbursements shall be invested only in:

(a) Securities which are legal for savings bank investments in the state or which have been certified as legal investments for savings banks pursuant to Division 10 of the Water Code, or any bonds which, pursuant to the statutes or laws providing for the issuance of such bonds are entitled to the same force or value or use as bonds issued by any municipality, or any bonds issued pursuant to those acts, statutes or laws of this state wherein such law specifically states by reference or otherwise that such bonds shall be legal investments for either savings banks, insurance companies, all trust funds, state school funds and any funds which may be invested in bonds of cities, counties, cities and counties, school districts, or municipalities in the state, or any bonds which have been investigated and approved by a commission or board now or hereafter authorized by law to conduct such investigation and give such approval and by authority of which said bonds are declared to be legal investments for insurers.

(b) Deposits at interest in any state or national bank in accordance with law authorizing and controlling the deposit of public funds in banks.

(c) Certificates and shares of a building and loan association or a federal savings and loan association if the certificates or shares are insured as defined in Title IV of the National Housing Act.

(d) Registered warrants of any political subdivision of this state.

(e) Real property or improvements constructed or to be constructed on real property when such real property or such improvements are acquired for sale or lease to a county of this state and subject to the limitations of this article, except as provided by Section 31595.6.

(f) Deeds of trust and mortgages. Not to exceed 25 percent of all funds invested may be invested pursuant to this subdivision. Such investment may be made by the board with the approval of the board of supervisors of said county.

(g) Real property or improvements constructed or to be constructed on real property when such real property or such improvements are acquired for sale or lease to a county board of education to whom the provisions of Chapter 2 (commencing at

Section 20400), Division 15 of the Education Code have become applicable and to whom the board of supervisors has transferred the duty and function of providing housing for all the services of the county superintendent of schools as authorized by Section 671 of the Education Code and subject to the limitations of this article.

(h) Insurance contracts of life insurers admitted to do business in California. As used in this subdivision, "insurance contracts" include, but are not limited to, insurance policies, annuity contracts, and other contracts and agreements supplemental thereto which may provide for participation in one or more commingled accounts of a life insurance company, including its separate accounts.

CHAPTER 578

An act to amend Section 547 of the Code of Civil Procedure, relating to domestic violence.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 547 of the Code of Civil Procedure is amended to read:

547. The court may issue upon notice and a hearing, any of the following orders:

(a) Any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant, any of the orders set forth in paragraphs (2), (3), (5) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child.

(b) Where there exists a presumption that the defendant is the natural father of any minor child, pursuant to Section 7004 of the Civil Code, and the child is in the custody of the plaintiff, the court may order a party to pay any amount necessary for the support and maintenance of the child if such an order would otherwise be authorized in an action brought pursuant to Part 7 of Division 4 (commencing with Section 7000) of the Civil Code. However, any order pursuant to this subdivision shall be without prejudice in any such action.

(c) An order that restitution be paid, (1) to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care, psychological care, and temporary housing, incurred as a direct result of the abuse or any actual physical injuries sustained therefrom; (2) to any individual or agency for the reasonable value

of any services provided to a family or household member as a direct result of the abuse, including, but not limited to, medical care, housing, living expenses, advocacy (including counseling and referral services), child care, and transportation; or (3) by plaintiff for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order.

(d) An order requiring any party to participate in counseling where the parties so stipulate or where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence.

(e) An order for the payment of attorneys' fees and costs of the prevailing party.

CHAPTER 579

An act to amend Section 10178 of the Insurance Code, relating to insurance.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 10178 of the Insurance Code is amended to read:

10178. No admitted insurer, union trust fund which administers health, medical, or surgical insurance, or employer which has an insurance company administering its health services program, shall deny, for the reason that the insured incurred no expense, a claim for hospital, medical or surgical services rendered by a nongovernmental charitable research hospital in this state which makes no charge for its services in the absence of insurance. No expense-incurred, group hospital, medical or surgical policy or certificate or union trust fund which administers health, medical, or surgical insurance, or employer which has an insurance company administering its health services program, shall except, limit or reduce benefits for services rendered by a nongovernmental charitable research hospital because it does not charge for its services in the absence of insurance. No expense-incurred individual hospital, medical or surgical policy or certificate or union trust fund which administers health, medical, or surgical insurance, or employer which has an insurance company administering its health services program, shall except, limit, or reduce benefits for services rendered by a nongovernmental charitable research hospital because it does not charge for its services in the absence of insurance.

This section shall apply to every group policy or certificate of expense-incurred hospital, medical, or surgical insurance covering or delivered to a covered individual in this state, notwithstanding the situs of the group master policy pursuant to which the coverage is provided.

As used in this section, charitable research hospital means a hospital that meets all the following criteria:

(1) Is internationally recognized as devoting itself primarily to medical research.

(2) Expends not less than 10 percent of its operating budget in each fiscal year exclusively on medical research activities which are not directly related to the provision of services to patients.

(3) Derives not less than one-third of its gross revenues in each fiscal year from contributions, donations, grants, gifts, or other gratuitous forms from individuals, groups, persons, or entities unrelated to the hospital. Contributions, donations, grants, gifts or other gratuitous sources of revenue received as compensation for medical services provided patients shall not be considered for purposes of this subdivision.

(4) Accepts patients without regard to the patient's ability to pay for medical services.

(5) Not less than two-thirds of the patients admitted have a primary diagnosis or suspected disease or condition directly related to the specific area or areas in which the hospital conducts research. Patients admitted because of an emergent life-threatening condition who could not be safely transported to another hospital shall not be considered as patients for purposes of this section.

CHAPTER 580

An act to amend Section 14523 of the Government Code, relating to transportation.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 14523 of the Government Code is amended to read:

14523. The commission shall prepare an independent evaluation of the department's budget regarding the adequacy of funding levels and the relative needs of program categories as defined in Section 167 of the Streets and Highways Code and submit its recommendations to the Legislature not later than March 1 of each year. The report shall reflect the commission's judgment regarding the overall funding levels for each program category and shall not duplicate the item by item analysis conducted by the Legislative

Analyst.

The evaluation and recommendations of the commission shall include recommended adjustments of the motor vehicle fuel tax rates and commercial vehicle weight fees necessary to fund the state highway programs for the maintenance, rehabilitation, reconstruction, and operational improvements of the existing state highway system.

CHAPTER 581

An act to amend, repeal, and add Section 10500 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 10500 of the Vehicle Code is amended to read:

10500. Every peace officer, upon receiving a report based on reliable information that any vehicle has been stolen, taken, or driven in violation of Section 10851, Section 487 of the Penal Code, or subdivision (b) of Section 499 of the Penal Code, or that license plates for any vehicle have been lost or stolen, shall, immediately after receiving that information, report the information to the Department of Justice Stolen Vehicle System. An officer, upon recovery of any vehicle which has been previously reported as stolen, taken, or driven in violation of Section 10851, Section 489 of the Penal Code, or subdivision (b) of Section 499 of the Penal Code, or of the recovery of plates which have been previously reported as lost or stolen, shall immediately report the fact of the recovery to the Department of Justice Stolen Vehicle System. At the same time, the recovering officer shall advise the Department of Justice Stolen Vehicle System and the original reporting police agency of the location and condition of the vehicle or license plates recovered. The original reporting police agency, upon receipt of the information from the recovering officer, shall within 48 hours, excluding weekends and holidays, notify the victim of the location and condition of the vehicle recovered.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 2. Section 10500 is added to the Vehicle Code, to read:

10500. Every peace officer, upon receiving a report based on reliable information that any vehicle registered under this code has been stolen, taken, or driven in violation of Section 10851, or that license plates for any vehicle have been lost or stolen, shall,

immediately after receiving that information, report the information to the Department of Justice. An officer, upon receiving information of the recovery of any vehicle which has been previously reported as stolen, taken, or driven in violation of Section 10851, or of the recovery of plates which have been previously reported as lost or stolen, shall immediately report the fact of the recovery to the Department of Justice. At the same time, the recovering officer shall advise the Department of Justice and the original reporting police agency of the location and condition of the vehicle or license plates recovered.

This section shall become operative January 1, 1989.

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

CHAPTER 582

An act to amend and repeal Sections 9853, 9855, 9860, 9867, and 9901 of the Vehicle Code, relating to vessels, and making an appropriation therefor.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 9853 of the Vehicle Code, as amended by Section 1 of Chapter 881 of the Statutes of 1980, is amended to read:

9853. The owner of each vessel requiring numbering by this state shall file an initial application for a number with the department or with an agent authorized by the department on forms approved by the department. Such forms shall be prepared in cooperation with the Department of Boating and Waterways. The application shall contain the true name and address of the owner and of the legal owner, if any, and the hull identification number of the vessel as may be required by the department. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of nine dollars ($9).

SEC. 2. Section 9853 of the Vehicle Code, as added by Section 1.5 of Chapter 881 of the Statutes of 1980, is repealed.

SEC. 3. Section 9855 of the Vehicle Code, as amended by Section 2 of Chapter 881 of the Statutes of 1980, is amended to read:

9855. If the ownership of an undocumented vessel changes, the

existing certificate of ownership and a new application form accompanied by a fee of eight dollars ($8) shall be filed with the department and a new certificate of ownership and a new certificate of number shall be issued in the same manner as provided for in the initial issuance of number and the number shall be reassigned to the new owner.

SEC. 4. Section 9855 of the Vehicle Code, as added by Section 2.5 of Chapter 881 of the Statutes of 1980, is repealed.

SEC. 5. Section 9860 of the Vehicle Code, as amended by Section 3 of Chapter 881 of the Statutes of 1980, is amended to read:

9860. Certificates of number shall be renewed between January 1 and the first Friday of February every year by presentation of the certificate of number last issued for the vessel or by presentation of a potential registration card issued by the department. The fee for renewal shall be five dollars ($5) per year and shall accompany the request for such renewal.

SEC. 6. Section 9860 of the Vehicle Code, as added by Section 3.5 of Chapter 881 of the Statutes of 1980, is repealed.

SEC. 7. Section 9867 of the Vehicle Code, as amended by Section 5 of Chapter 881 of the Statutes of 1980, is amended to read:

9867. A fee of five dollars ($5) shall be charged for a duplicate of certificate of number, certificate of ownership, or current year registration stickers.

SEC. 8. Section 9867 of the Vehicle Code, as added by Section 5.5 of Chapter 881 of the Statutes of 1980, is repealed.

SEC. 9. Section 9901 of the Vehicle Code, as amended by Section 6 of Chapter 881 of the Statutes of 1980, is amended to read:

9901. Whenever any person has received as transferee a properly endorsed certificate of ownership and the certificate of number of the vessel described in the certificates, he shall within 10 days thereafter file the certificates accompanied by a fee of eight dollars ($8) with the department, and thereby make application for a certificate of ownership and certificate of number.

SEC. 10. Section 9901 of the Vehicle Code, as added by Section 6.5 of Chapter 881 of the Statutes of 1980, is repealed.

SEC. 11. It is the intent of the Legislature that money derived from increased vessel registration fees be available and used as provided in subdivision (b) of Section 9863 of the Vehicle Code exclusively for boating safety and enforcement programs, and that such programs shall be self-sufficient through such fees.

CHAPTER 583

An act to amend Section 800 of the Penal Code, relating to crimes.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 800 of the Penal Code is amended to read:

800. (a) An indictment for any felony, except murder, the embezzlement of public money, or a violation of Section 209 of the Penal Code, and except as provided in subdivisions (b) and (c), shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within six years after its commission.

(c) An indictment for grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, felony Medi-Cal fraud in violation of Section 14107 of the Welfare and Institutions Code, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within three years after its discovery.

SEC. 2. Section 800 is added to the Penal Code, to read:

800. (a) An indictment for any felony, except murder, the embezzlement of public money, or a violation of Section 209 of the Penal Code, and except as provided in subdivisions (b) and (c), shall be found, an information filed, or case certified to the superior court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission.

(c) An indictment for grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, felony Medi-Cal fraud in violation of Section 14107 of the Welfare and Institutions Code, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

SEC. 3. Section 800 of the Penal Code as amended by Section 1 of this act shall remain in effect only until a decision of a court of

appeal or of the California Supreme Court becomes final, or an amendment to the California Constitution takes effect, whichever occurs first, which decision or amendment provides that a person charged by indictment with a felony is not entitled to a preliminary hearing, and as of such date Section 800 as amended by Section 1 of this act shall be repealed, and Section 800 shall be added to the Penal Code in the form set forth in Section 2 of this act.

As used in this section, a decision of a court of appeal is final if not reviewed by the California Supreme Court or United States Supreme Court, and a decision of the California Supreme Court is final if not reviewed by the United States Supreme Court.

CHAPTER 584

An act to add Sections 26667 and 74007 to the Government Code, relating to courts.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 26667 is added to the Government Code, to read:

26667. Notwithstanding any other provision of law, the Board of Supervisors of Orange County shall have the authority to consolidate duplicate services provided by the sheriff's department and the marshal's office within that county in the manner set forth in this section.

(a) In the event the board of supervisors desire to effect such a consolidation it shall create a sheriff/marshal consolidation advisory committee composed of two members of the board of supervisors, appointed by that board; the presiding judge of the Orange County Superior Court or his or her designee, who shall be a judge of the superior court; a person selected by a majority of the judges of the municipal courts in that county, who shall be a municipal court judge; and a fifth person whose selection shall be concurred in by unanimous vote of the other members.

(b) The advisory committee shall prepare a plan for the consolidation of the above services. The plan shall be approved by affirmative vote of at least three of the members of the committee.

(c) If so approved, the plan shall be forwarded to the judges of the superior and municipal courts for ratification. The plan may not be implemented unless ratified by a majority of the trial court judges of the county and by the Legislature. The plan shall be deemed ratified by the Legislature if this section is not repealed by legislation taking effect within 90 legislative days following ratification by the trial court judges of the county.

SEC. 2. Section 74007 is added to the Government Code, to read:

74007. Notwithstanding any other provision of law, the Board of Supervisors of Orange County shall have the authority to consolidate duplicate services provided by the sheriff's department and the marshal's office within that county pursuant to Section 26667.

SEC. 3. The provisions of this act are necessary because Orange County is the only county where the judges of the municipal court and judges of the superior court and the board of supervisors, the sheriff, the marshal, and the county clerk have all accepted the terms of consolidation of the offices of marshal and sheriff set forth in this act. It is hereby declared that a general law cannot be made applicable because Orange County is the only county where all the parties of interest have agreed to such consolidation, and the county needs legislative authorization to implement consolidation of these offices. Accordingly, it is necessary that this special act be adopted.

CHAPTER 585

An act to amend Section 7152 of the Business and Professions Code, relating to contractors, and making an appropriation therefor.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 7152 of the Business and Professions Code is amended to read:

7152. "Home improvement salesman" is a person employed by a contractor licensed under this chapter, to solicit, sell, negotiate or execute home improvement contracts under which home improvements may be performed by the contractor, or a swimming pool contract subject to Section 7167. "Home improvement salesman" is also a person who solicits, sells, negotiates or executes contracts for the sale, installation, or furnishing of home improvement goods or services. Officers of corporations licensed pursuant to this chapter, persons who qualify under Section 7068.1, sales persons whose sales are all made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, sales persons whose sales are all made pursuant to negotiations between the parties initiated by the prospective buyer at or to such business establishment, and bona fide service repairmen who are in the employ of a licensed contractor and who are responding to a buyer-initiated service, repair, or emergency repair call shall not be considered home improvement salesmen.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 586

An act to add Section 14838.4 to the Government Code, relating to state government.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 14838.4 is added to the Government Code, to read:

14838.4. No small business preference shall be allowed if allowing the small business preference would result in a computed bid of the preference recipient which would exceed the amount of funds appropriated by the Legislature for the construction project, plus any augmentation that may be made by the State Public Works Board pursuant to authority granted in the annual Budget Act.

CHAPTER 587

An act to amend Section 1820 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 1820 of the Military and Veterans Code is amended to read:

1820. Any person who willfully wears or uses the badge, lapel button, rosette, or other recognized and estimable insignia of the American Legion, Disabled American Veterans, or Veterans of Foreign Wars, unless he is entitled to wear or use it under the rules and regulations and with the express permission of the American Legion, Disabled American Veterans, or Veterans of Foreign Wars, is guilty of a misdemeanor and is punishable for a first conviction by imprisonment for a term not to exceed 30 days in the county jail, or a fine not to exceed two hundred fifty dollars ($250), except that if

the person has been previously convicted of a violation of this section, that conviction shall be specified in the accusation and if found to be true or admitted by the person, a second or succeeding violation of this section is punishable by imprisonment not to exceed six months in the county jail, or a fine not to exceed five hundred dollars ($500), or both such fine and imprisonment.

Nothing in this section shall preclude prosecution for violation of any other law.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 588

An act to add and repeal Section 21655.6 to the Vehicle Code, relating to exclusive highway lanes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 21655.6 is added to the Vehicle Code, to read:

21655.6. Whenever the Department of Transportation authorizes or permits exclusive or preferential use of highway lanes for high-occupancy vehicles on any highway located within the territory of a regional transportation planning agency or the local transportation commission, the department shall obtain the approval of the regional transportation planning agency or the local transportation commission prior to establishing the exclusive or preferential use of the highway lanes.

This section shall remain in effect only until July 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1984, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the expenditure of state funds for unnecessary exclusive or preferential highway lanes projects which would not have been approved by the affected regional transportation

planning agency or local transportation commission, it is necessary that this act take effect immediately.

CHAPTER 589

An act to add Section 7254 to the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 7254 is added to the Welfare and Institutions Code, to read:

7254. Notwithstanding any other provision of law, the State Department of Mental Health shall have the authority to require that patients committed to a state mental health facility pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code, and Sections 6316 and 6321 of this code shall wear identifiable clothing in a secured area of the facility.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public health and safety in light of recent escapes at Patton State Hospital and other state health facilities, it is necessary that this act take effect immediately.

CHAPTER 590

An act to amend Section 51241 of the Education Code, relating to curriculum.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 51241 of the Education Code is amended to read:

51241. (a) The governing board of any school district or the office of the county superintendent of any county may grant temporary exemption to a pupil from courses in physical education, if the pupil is one of the following:

(1) Ill or injured and a modified program to meet the needs of the pupil cannot be provided.

(2) Enrolled for one-half, or less, of the work normally required of full-time pupils.

(b) The governing board of any school district or the office of the county superintendent of any county may grant permanent exemption from courses in physical education if the pupil complies with any one of the following:

(1) Has completed the 10th grade.

(2) Is 16 years of age or older and has been enrolled in the 10th grade for one academic year or longer.

(3) Is enrolled as a postgraduate pupil.

(4) Is enrolled in a juvenile home, ranch, camp, or forestry camp school where pupils are scheduled for recreation and exercise pursuant to the requirements of Section 4346 of Title XV of the California Administrative Code.

(c) No pupil exempted under paragraph (1) or (2) of subdivision (b) shall be permitted to attend fewer total hours of courses and classes if the pupil elects not to enroll in a physical education course than he or she would have attended if he or she had elected to enroll in a physical education course.

SEC. 2. Section 51241 of the Education Code is amended to read:

51241. (a) The governing board of any school district or the office of the county superintendent of schools of any county may grant temporary exemption to a pupil from courses in physical education, if the pupil is one of the following:

(1) Ill or injured and a modified program to meet the needs of the pupil cannot be provided.

(2) Enrolled for one-half, or less, of the work normally required of full-time pupils.

(b) The governing board of any school district or the office of the county superintendent of schools of any county may, with the consent of a pupil, grant the pupil exemption from courses in physical education for two years any time during grades 10 to 12, inclusive.

(c) The governing board of any school district or the office of the county superintendent of any county may grant permanent exemption from courses in physical education if the pupil complies with any one of the following:

(1) Is 16 years of age or older and has been enrolled in the 10th grade for one academic year or longer.

(2) Is enrolled as a postgraduate pupil.

(3) Is enrolled in a juvenile home, ranch, camp, or forestry camp school where pupils are scheduled for recreation and exercise pursuant to the requirements of Section 4346 of Title XV of the California Administrative Code.

(d) No pupil exempted under subdivision (b) or paragraph (1) of subdivision (c) shall be permitted to attend fewer total hours of courses and classes if he or she elects not to enroll in a physical

education course than he or she would have attended if he or she had elected to enroll in a physical education course.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 2064 are both chaptered and become effective January 1, 1983, both bills amend Section 51241 of the Education Code, and this bill is chaptered after Senate Bill 2064, that the amendments to Section 51241 proposed by both bills be given effect and incorporated in Section 51241 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill 2064 are both chaptered and become effective January 1, 1983, both amend Section 51241, and this bill is chaptered after Senate Bill 2064, in which case Section 1 of this act shall not become operative.

CHAPTER 591

An act to amend Sections 1155, 1156, and 1158 of the Civil Code, and to amend Section 186 of the Probate Code, relating to gifts to minors.

[Approved by Governor August 24, 1982 Filed with Secretary of State August 25, 1982]

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

SECTION 1. Section 1155 of the Civil Code is amended to read:

1155. In this article, unless the context otherwise requires:

(a) An "adult" is a person who has attained the age of 18 years.

(b) A "bank" is any bank authorized to do business in this state.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the superior court.

(e) "The custodial property" includes:

(1) All securities, money, life or endowment insurance policies, annuity contracts, real estate, tangible personal property, or any other type of property under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article.

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life or endowment insurance policies, annuity contracts, real estate, tangible personal property, other property, or income.

(f) A "custodian" is a person so designated in a manner prescribed

in this article. The term includes a successor custodian.

(g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state or an industrial loan company licensed and supervised under the laws of the State of California. An "insured financial institution" is one, where deposits, including a savings, share, certificate or deposit account, in which are, in whole or in part, insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or in the case of a California industrial loan company, by membership in Thrift Guaranty Corporation.

(h) A "guardian" of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(k) "Life or endowment insurance policies and annuity contracts," means only life or endowment insurance policies and annuity contracts on the life of a minor or a member of the minor's family as defined in subdivision (*l*) of this section.

(*l*) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A "minor" is a person who has not attained the age of 18 years.

(n) A "savings and loan association" includes a federal savings and loan association, or a state-chartered savings and loan association or building and loan association doing business in this state; an "insured savings and loan association" is a savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act; and an "account in an insured savings and loan association" has the same meaning as in Section 1406 of the Probate Code.

(o) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, interest in a partnership or limited partnership, account in an insured savings and loan association, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly

known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(p) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(q) A "trust company" means a trust company as defined by Sections 107 and 109 of the Financial Code.

SEC. 1.5. Section 1155 of the Civil Code is amended to read:

1155. In this article, unless the context otherwise requires:

(a) An "adult" is a person who has attained the age of 18 years.

(b) A "bank" is any bank authorized to do business in this state.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the superior court.

(e) "The custodial property" includes:

(1) All securities, money, life or endowment insurance policies, annuity contracts, real estate, tangible personal property, or any other type of property under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article.

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life or endowment insurance policies, annuity contracts, real estate, tangible personal property, other property, or income.

(f) A "custodian" is a person so designated in a manner prescribed in this article. The term includes a successor custodian.

(g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state or an industrial loan company, licensed and supervised under the loans of the State of California. An "insured financial institution" is one, where deposits, including a savings, share, certificate or deposit account, in which are, in whole or in part, insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or in the case

of a California industrial loan company, by membership in Thrift Guaranty Corporation, or by the National Credit Union Share Insurance Fund or, in the case of a state-licensed credit union not participating in the National Credit Union Share Insurance Fund, by participation in the California Credit Union Share Guaranty Corporation or as provided in Section 14858 of the Financial Code.

(h) A "guardian" of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(k) "Life or endowment insurance policies and annuity contracts," means only life or endowment insurance policies and annuity contracts on the life of a minor or a member of the minor's family as defined in subdivision (*l*) of this section.

(*l*) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A "minor" is a person who has not attained the age of 18 years.

(n) A "savings and loan association" includes a federal savings and loan association, or a state-chartered savings and loan association or building and loan association doing business in this state; an "insured savings and loan association" is a savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act; and an "account in an insured savings and loan association" has the same meaning as in Section 1406 of the Probate Code.

(o) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, interest in a partnership or limited partnership, account in an insured savings and loan association, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf

of the issuer.

(p) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(q) A "trust company" means a trust company as defined by Sections 107 and 109 of the Financial Code.

SEC. 2. Section 1156 of the Civil Code is amended to read:

1156. (a) An adult person may, during his lifetime, make a gift of a security, money, a life or endowment insurance policy, an annuity contract, real estate, tangible personal property, or any other property to a person who is a minor on the date of the gift:

(1) If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person, a guardian of the minor or a trust company, followed, in substance, by the words:

"as custodian for _____
(Name of minor)
under the California Uniform Gifts to Minors Act.";

(2) If the subject of the gift is a security not in registered form, by delivering it to an adult person, other than the donor, a guardian of the minor or to a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"Gift Under the California Uniform
Gifts to Minors Act

I, _____ ,
(Name of donor)
hereby deliver to _____
(Name of custodian)
as custodian for _____
(Name of minor)
under the California Uniform Gifts to Minors Act, the following security(ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

_____
(Signature of donor)

_____
(Name of custodian)
hereby acknowledges receipt of the above-described security(ies) as custodian for the above minor under the California Uniform Gifts to Minors Act.

Dated: _____ _____
(Signature of custodian)

(3) If the subject of the gift is money, by paying or delivering it to a broker or a financial institution, for credit to an account in the name of the donor, another adult person, a guardian of the minor, or

a bank with trust powers, followed, in substance, by the words:

"as custodian for _____
(Name of minor)
under the California Uniform Gifts to Minors Act."

(4) If the subject of the gift is a life or endowment insurance policy or an annuity contract, such policy or contract shall be assigned to the donor, another adult person, or a bank with trust powers, followed, in substance, by the words:
"as custodian for _____
(Name of minor)
under the California Uniform Gifts to Minors Act."

(5) If the subject of the gift is an interest in real estate, by executing and delivering in the appropriate manner a deed, assignment, or similar instrument to the donor or to another adult, or guardian of the minor, or a trust company, followed, in substance, by the words:
"as custodian for _____
(Name of minor)
under the California Uniform Gifts to Minors Act.

(6) If the subject of the gift is an interest in any property not described in paragraphs (1)—(5), above, inclusive, by causing the ownership of the property to be transferred by any written document to the donor or to another adult, a guardian of the minor, or a trust company, followed, in substance, by words:
" as custodian for_____
(Name of minor)
under the California Uniform Gifts to Minors Act.

(b) Any gift made in a manner prescribed in subdivision (a) may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in subdivision (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subdivision, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

SEC. 3. Section 1158 of the Civil Code is amended to read:

1158. (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education, and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without

regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of 14 years, may order the custodian to pay over to the minor for expenditure by the minor or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance, or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver, convey, or pay it over, with an accounting, to the minor on his attaining the age of 18 years or, if the minor dies before attaining the age of 18 years, he shall thereupon deliver or pay it over, with an accounting, to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this article.

(f) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of an issuer, a security of which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian. With respect to any interest in real estate, the custodian may perform the same acts that any unmarried adult could perform including, but not limited to, the power to buy, sell, assign, transfer, convey, dedicate, partition, exchange, mortgage, create or redeem ground rents, deed, grant or exercise options, effect and keep in force fire, rent, liability, casualty, and other insurance; make, execute, acknowledge, and deliver deeds, conveyances, mortgages, releases, leases, including leases for 99 years renewable forever, and leases extending beyond the minority of the minor; collect rents; improve, subdivide, or develop property; construct, alter, demolish, or repair property; settle boundary lines and easements; pay taxes; and protect assessments. With respect to any interest in real property, a person who in good faith either assists a custodian or deals with the custodian for value is protected as if the custodian properly exercised his or her power. The fact that a person is known to be acting in his or her capacity as custodian does not impose any obligation on other parties to inquire into the existence of the custodian's power or the propriety of its exercise. If the exercise of power is improper, the custodian is liable to interested

parties for their damage or loss from the breach of fiduciary duty as the trustee of an express trust.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words:

"As custodian for _____
(Name of minor)

under the California Uniform Gifts to Minors Act." The custodian shall hold all money which is custodial property in an account with a broker or an insured financial institution in the name of the custodian, followed, in substance, by the words:

"As custodian for _____
(Name of minor)

under the California Uniform Gifts to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of 14 years.

(i) A custodian has and holds as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in this article, all the rights and powers which a guardian has with respect to property not held as custodial property.

(j) If the subject of the gift is a life or endowment insurance policy or annuity contract, the custodian (1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and (2) may pay premiums on the policy or contract out of the custodial property.

SEC. 4. Section 186 of the Probate Code is amended to read:

186. A testator may bequeath securities, money, life or endowment policies, annuity contracts, real estate, tangible personal property, or any other type of property, as such terms are defined or used in the California Uniform Gifts to Minors Act (Article 4 (commencing with Section 1154) of Chapter 3 of Title 4 of Part 4 of Division 2 of the Civil Code), to a person who is a minor as provided in this chapter.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 3359 are both chaptered and become effective January 1, 1983, both bills amend Section 1155 of the Civil Code, and this bill is chaptered after Assembly Bill 3359, that the amendments to Section 1155 proposed by both bills be given effect and incorporated in Section 1155 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and

Assembly Bill 3359 are both chaptered and become effective January 1, 1983, both amend Section 1155, and this bill is chaptered after Assembly Bill 3359, in which case Section 1 of this act shall not become operative.

CHAPTER 592

An act to amend Sections 22709 and 22719 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor August 24, 1982 Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 22709 of the Education Code is amended to read:

22709. Service shall be computed by school years and not by calendar years, portions of years served being accumulated and counted as service. All of the service performed during any one school year in a position requiring membership in this system shall not count for more than one year.

In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits which he would have received for that service under the provisions of this part as they existed on June 30, 1956. The provisions of this paragraph do not apply to service which is credited in the San Francisco City and County Employees Retirement System.

SEC. 2. Section 22719 of the Education Code is amended to read:

22719. A member shall be credited at retirement for each day of accumulated and unused leave of absence for illness or injury for which full salary is allowed that the member was entitled to on the final day the member performed service for the school district or other employing agency by which the member was last employed in a position requiring membership in the system.

The number of years of service credit to be granted shall be determined by dividing the number of days of accumulated and unused leave of absence for illness or injury by the number of days of service required by the member's contract of employment during the final year of service in a position requiring membership in the system. In no event shall the divisor be less than 175.

When the member has made application for retirement under this part, the school district or other employing agency shall certify to the board, within 30 days following the effective date of the member's retirement, the number of days of accumulated and unused leave of absence for illness or injury that the employee is entitled to on the final day of employment. The board may assess a penalty on

delinquent reports.

This section shall not be applicable to any person who became a member of the system on or after July 1, 1980, whether or not the person was ever a member prior to that date.

CHAPTER 593

An act to amend Sections 69017, 69022, 69081, and 69085 of the Food and Agricultural Code, relating to the California Pistachio Commission, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 69017 of the Food and Agricultural Code is amended to read:

69017. "Handler" means any person who engages in the operation of selling, marketing, or distributing pistachios which he or she has produced or purchased or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. It does not, however, include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer pistachios which were not previously subject to regulation by the commission.

SEC. 2. Section 69022 of the Food and Agricultural Code is amended to read:

69022. (a) "Processor" means any person engaged, within this state, as a handler in the business of selling, marketing, or distributing pistachios, and employees thereof so engaged.

(b) For purposes of the collection of assessments, "processor" also means a person, business, or corporation which prepares for market pistachios he or she has produced or received from producers, and in so doing establishes the commodity's marketability. If the marketable pistachios are returned to the producer for handling, the processor shall collect from the producer the assessments provided for under this chapter, and shall handle these funds in accordance with Section 69085 and be subject to the requirements of Article 6 (commencing with Section 69081).

SEC. 3. Section 69081 of the Food and Agricultural Code is amended to read:

69081. The commission shall, not later than September 1 of each year, establish the assessment for the following 12 months which shall not exceed 5 percent of the average price paid to producers, computed on a per pound basis or computed in any other manner determined by the commission to be reasonably equivalent to the

per pound computation.

SEC. 4. Section 69085 of the Food and Agricultural Code is amended to read:

69085. Assessments shall be upon the producer. The first handler of pistachios being assessed shall deduct the assessment from amounts paid by him or her to the producer, and shall be a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission. Processors, as provided for in subdivision (b) of Section 69022 shall collect the assessment from the producer, and shall be a trustee of the funds until they are paid to the commission in the same time and manner provided for a handler.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may apply to the fiscal year of the California Pistachio Commission commencing September 1, 1982, it is necessary that this act take effect immediately.

CHAPTER 594

An act to amend Section 12689 of the Health and Safety Code, relating to explosives.

[Approved by Governor August 24, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 12689 of the Health and Safety Code is amended to read:

12689. (a) It is unlawful for any person to sell, give, or deliver any dangerous fireworks to any person under 18 years of age.

(b) It is unlawful for any person who is a retailer to sell or transfer any safe and sane fireworks to a person who is under 16 years of age.

(c) It is unlawful for any person who is a retailer to sell or transfer to a person under the age of 18 any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distance signaling purposes. It is also unlawful for a minor to possess such a device unless he or she has the written permission of, or is accompanied by, his or her parent or guardian while it is in his or her possession.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a

local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 595

An act to add Sections 777, 5612.5, 11110, and 14409.2 to the Financial Code, relating to financial institutions.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

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

777. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, a commercial bank licensed to do business in California under the laws of this state or of the United States, or officer or employee thereof, may deliver fingerprints taken of an applicant for employment to local, state, or federal law enforcement agencies for the purpose of obtaining information as to the existence and nature of a criminal record, if any, of the applicant relating to convictions, and to any arrest for which the applicant is released on bail or on his or her own recognizance pending trial, for the commission or attempted commission of a crime set forth in Section 115, 211, 337a, 459, 464, 470, 471, 472, 475, 475a, 476, 476a, 477, 480, 484, 484e, 484f, 484g, 484h, 484i, 487, 496, 502, 503, 504b, 506, 506a, 508, 532, 532a, or 648 of the Penal Code, or of a comparable crime committed in another state.

(b) The Department of Justice shall, pursuant to Section 11105 of the Penal Code, and a local agency may, pursuant to Section 13300 of the Penal Code, furnish to the officer of the bank responsible for the final decision regarding employment of the applicant, or to his or her designees having responsibilities for personnel or security decisions in the usual scope and course of their employment with the bank, summary criminal history information when requested pursuant to this section.

(c) No request shall be submitted without the written consent of the applicant.

SEC. 2. Section 5612.5 is added to the Financial Code, to read:

5612.5. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, a savings and loan association or officer or employee thereof may deliver fingerprints taken of an applicant for employment to local, state, or federal law enforcement agencies for the purpose of obtaining information as to the existence and nature of a criminal record, if any, of the applicant relating to convictions, and to any

arrest for which the applicant is released on bail or on his or her own recognizance pending trial, for the commission or attempted commission of a crime set forth in Section 115, 211, 337a, 459, 464, 470, 471, 472, 475, 475a, 476, 476a, 477, 480, 484, 484e, 484f, 508, 532, 532a, or 648 of the Penal Code, or of a comparable crime committed in another state.

(b) The Department of Justice shall, pursuant to Section 11105 of the Penal Code, and a local agency may pursuant to Section 13300 of the Penal Code, furnish to the officer of the savings and loan association responsible for the final decision regarding employment of the applicant, or to his or her designees having responsibilities for personnel or security decisions in the usual scope and course of their employment with the savings and loan association, summary criminal history information when requested pursuant to this section.

(c) No request shall be submitted without the written consent of the applicant.

SEC. 3. Section 11110 is added to the Financial Code, to read:

11110. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, a federal savings and loan association officer or employee thereof may deliver fingerprints taken of an applicant for employment to local, state, or federal law enforcement agencies for the purpose of obtaining information as to the existence and nature of a criminal record, if any, of the applicant relating to convictions, and to any arrest for which the applicant is released on bail or on his or her own recognizance pending trial, for the commission or attempted commission of a crime set forth in Section 115, 211, 337a, 459, 464, 470, 471, 472, 475, 475a, 476, 476a, 477, 480, 484, 484e, 484f, 484g, 484h, 484i, 487, 497, 502, 503, 504b, 506, 506a, 508, 532, 532a, or 648 of the Penal Code, or of a comparable crime committed in another state.

(b) The Department of Justice shall pursuant to Section 11105 of the Penal Code, and a local agency may, pursuant to Section 13300 of the Penal Code, furnish to the officer of the savings and loan association responsible for the final decision regarding employment of the applicant, or to his or her designees having responsibilities for personnel or security decisions in the usual scope and course of their employment with the savings and loan association, summary criminal history information when requested pursuant to this section.

(c) No request shall be submitted without the written consent of the applicant.

SEC. 4. Section 14409.2 is added to the Financial Code, to read:

14409.2. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, any credit union or officer or employee thereof may deliver fingerprints taken of an applicant for employment by the credit union to local, state, or federal law enforcement agencies for the purpose of obtaining information as to the existence and nature of a

criminal record, if any, of the applicant relating to convictions, and to any arrest for which the applicant is released on bail or on his or her own recognizance pending trial, for the commission or attempted commission of a crime set forth in Penal Code Section 115, 211, 337a, 459, 464, 470, 484f, 484g, 484h, 484i, 487, 496, 502, 503, 504b, 506, 506a, 508, 532, 532a, or 648, or of a comparable crime committed in another state.

(b) The Department of Justice shall, pursuant to Section 11105 of the Penal Code, and a local agency may, pursuant to Section 13300 of the Penal Code, furnish to the officer of the credit union responsible for the final decision regarding employment of the applicant, or to his or her designees having responsibilities for personnel or security decisions in the usual scope and course of their employment with the credit union, summary criminal history information when requested pursuant to this section.

(c) No request shall be submitted without the written consent of the applicant.

CHAPTER 596

An act to add Section 19641 to the Welfare and Institutions Code, relating to blind persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 19641 is added to the Welfare and Institutions Code, to read:

19641. The surviving spouse of a blind vendor operating a facility pursuant to this article shall have the right after the death of the blind vendor to operate the facility operated by the blind vendor immediately prior to his or her death if the spouse meets all of the following conditions:

(a) The spouse is blind as that term is defined for purposes of this article.

(b) The spouse has been certified as qualified to operate a vending facility prior to the death of the blind vendor, even if the spouse is not currently certified as qualified to operate a vending facility.

(c) The spouse, within a period of one year after the death of the blind vendor, becomes recertified as qualified to operate a vending facility by passing a certification examination with a score of at least 70 percent.

(d) The spouse has assisted the blind vendor in the operation of the vending facility.

A license shall be issued to a surviving spouse who meets the requirements in subdivisions (a) through (d). If the spouse needs to be recertified as qualified to operate a vending facility, the spouse shall have undergone at least a two-month supervised on-the-job training experience at the facility which the blind vendor operated.

A spouse seeking to operate a vending facility pursuant to this section shall be permitted to operate the facility during the one-year period after the death of the blind vendor operating the facility without regard to the status of the spouse's certification, and the spouse shall be eligible during the one-year period after the death of the blind vendor for any training provided by the department, or any agency designated by the department, to persons seeking to become certified as qualified to operate a vending facility.

This section shall apply to vending facilities where the death of the blind vendor operating the facility occurs on or after January 1, 1981.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for emergency assistance to families of deceased blind vendors, it is necessary that this act go into immediate effect.

CHAPTER 597

An act to amend Sections 19612, 19612.1, 19612.3, and 19612.6 of, to add Section 19549.2 to, and to add and repeal Section 19414.6 of, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 19414.6 is added to the Business and Professions Code, to read:

19414.6. Notwithstanding Section 19414.5, the board may allocate racing weeks consisting of four or five racing days to an association conducting racing meetings pursuant to Section 19549.2 if the association and the organization representing the horsemen agree to the allocation. Upon agreement between the racing association and the organization representing the horsemen that racing on a state or national holiday will be uneconomical, there need not be racing on such day but such day would qualify as one of the days required to meet the racing day requirements set by the board.

This section shall remain in effect only until January 31, 1984, and as of that date is repealed, unless a later enacted statute, which is

chaptered before January 31, 1984, deletes or extends that date.

SEC. 2. Section 19549.2 is added to the Business and Professions Code, to read:

19549.2. Notwithstanding subdivision (b) of Section 19531 and Section 19549, the board may allocate a maximum of 12 additional weeks of harness racing to the 22nd District Agricultural Association to be conducted on the 22nd District Agricultural Association grounds. The additional racing shall be conducted by a person other than the 22nd District Agricultural Association. The board shall allocate the weeks authorized by this section only during the months of January, October, November, and December.

SEC. 3. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a harness or quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
$550,000 or less	2.5 percent of handle
$550,001 to $750,000	$13,750 plus 5.5 percent of the handle in excess of $550,001
$750,001 and more	$24,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of the daily exotic parimutuel handle.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19610, 19491, and 19491.5, after distribution of the applicable license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, except for meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses. For meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 50 percent as commissions and 50 percent as purses.

(c) Every harness association which conducted its racing meeting in a single continuous period prior to January 1, 1979, or any transferee or successor or subsequent transferee or successor of the business or assets of the association, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following

schedule:

Daily Handle	License Fee Rate
$1,000,000 or less	1.5 percent of handle
$1,000,001 and more	$15,000 plus 10.7 percent of the handle in excess of $1,000,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of its daily conventional parimutuel handle and 3.79 percent of its daily exotic parimutuel handle.

(d) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(e) Every quarter horse association which conducted its racing meeting in the northern zone prior to January 1, 1979, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$550,000 or less	1.5 percent of handle
$550,001 to $750,000	$8,250 plus 2.75 percent of the handle in excess of $550,001
$750,001 and more	$13,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of its daily exotic parimutuel handle.

(f) Every association which conducted a quarter horse racing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts such a meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that such association's average daily handle in the 1981 year, during the period from the commencement of such meeting to December 25, and for a like period of five meetings thereafter, falls below its 1980 average daily handle during the same period, the amount of the applicable license fee as set forth in subdivision (a) shall be reduced by 2 percent.

(g) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone pursuant to subdivision (e), the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the

meeting.

SEC. 4. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, except for associations conducting meetings pursuant to Section 19549.2, every association with an average daily handle of more than six hundred fifty thousand dollars ($650,000), which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent. Any association conducting a meeting pursuant to Section 19549.2 may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commissions, 50 percent; to the horsemen as additional purses, 50 percent.

(b) From the amount deducted for quarter or Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred quarter horses and California-bred Appaloosa horses at the time of their wins at races having a total purse value in excess of the average purse value for races conducted during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 10 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse and Appaloosa horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

(d) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 4.5. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted

pursuant to this chapter, except for associations conducting meetings pursuant to Section 19549.2, every association with an average daily handle of more than six hundred fifty thousand dollars ($650,000), which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent. Any association conducting a meeting pursuant to Section 19549.2 may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commissions, 50 percent; to the horsemen as additional purses, 50 percent.

(b) From the amount deducted for quarter or Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred quarter horses and California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse and Appaloosa horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

(d) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 5. Section 19612.3 of the Business and Professions Code is amended to read:

19612.3. (a) Notwithstanding any other provision of law, with respect to harness racing associations other than those conducting a meeting pursuant to Sections 19612.5 and 19612.6, an additional 1 percent of the parimutuel pool shall be retained and shall be distributed equally between license fees, purses, and commissions

from January 1, 1977, until December 31, 1986. From January 1, 1987, and thereafter, the additional retention from such harness racing parimutuel pools shall be decreased to 0.5 percent and shall be distributed equally between license fees, purses, and commissions.

(b) With respect to harness racing associations conducting a meeting pursuant to Section 19549.2 or 19612.6, an additional 1 percent of the parimutuel pool shall be retained and shall be distributed as additional commissions until December 31, 1986.

SEC. 6. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Sections 19549, 19549.1, 19549.2, 19549.5, 19549.6, 19549.7, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily handle	License fee rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) For harness and mixed meetings the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the

amount specified in subdivision (d) of Section 19614.

(d) In the event that any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(e) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(f) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill 3645 are both chaptered and become effective on or before January 1, 1983, both bills amend Section 19612.1 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 3645, that Section 19612.1 of the Business and Professions Code, as amended by Section 1 of Assembly Bill 3645, be further amended on the operative date of this act in the form set forth in Section 4.5 of this act to incorporate the changes in Section 19612.1 proposed by this bill. Therefore, Section 4.5 of this act shall become operative only if this bill and Assembly Bill 3645 are both chaptered and become effective on or before January 1, 1983, and Assembly Bill 3645 is chaptered before this bill and amends Section 19612.1, in which case Section 4 of this act shall not become operative.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that additional weeks of racing may be implemented at the 22nd District Agricultural Association, thereby providing urgently needed additional state revenues, it is necessary that this act take effect immediately.

CHAPTER 598

An act relating to fish and game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982]

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

SECTION 1. There is hereby appropriated from the Fish and Game Preservation Fund in the State Treasury the amount of twenty-five thousand dollars ($25,000) to the Department of Fish and Game for the purpose of making a grant to the County of Del Norte for purposes of assisting the county in the payment of litigation costs involving violations of Sections 8685.5 and 8685.6 of the Fish and Game Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expeditiously carry on the litigations for which appropriation is provided for under this act, it is necessary that this act take effect immediately.

CHAPTER 599

An act to amend Section 21150.1 of the Business and Professions Code, relating to petroleum franchises.

[Approved by Governor August 25, 1982 Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 21150.1 of the Business and Professions Code is amended to read:

21150.1. (a) In all future franchise agreements no retail gasoline dealer who operates pursuant to a franchise shall be required by the franchisor to operate the service station during hours that are not profitable to the franchisee, provided that the hours of operation that are maintained by the franchisee are for a continuing period of time.

(b) In the event that the terms and conditions of the franchise require the franchisee to maintain hours of operation that the franchisee has determined in good faith to be unprofitable, the franchisee shall notify the franchisor in writing of his or her determination that a certain period or periods are not profitable and provide the franchisor with any statements, studies, analyses, summaries, business records, or other documents that the franchisee prepared or reviewed to determine that operation of the service station during the period or periods specified in the notice were unprofitable.

(c) In the event that the franchisor in good faith is not satisfied that the operation of the service station is not profitable during the periods specified in the notice after the franchisor has reviewed the statements, studies, analyses, summaries, business records, or other

documents submitted by the franchisee, the franchisor may prepare its own statements, studies, analyses, summaries, business records, or other documents regarding the profitability of operation of the service station during the period specified by the franchisee. The franchisee shall reimburse the franchisor for the actual cost incurred by the franchisor in preparing any statements, studies, analyses, summaries, business records, or other documents to verify the franchisee's determination that it is not profitable to operate during the period or periods specified in the notice, not to exceed the sum of three hundred dollars ($300).

(d) In the event that the franchisor and franchisee still do not agree regarding the profitability of certain hours of operation, the franchisor and franchisee shall conduct arbitration in accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be final.

(e) The franchisee may establish and maintain the hours of operation of the service station without regard to the hours specified in the franchise:

(1) If the franchisor fails to notify the franchisee of his or her intent to prepare statements, studies, analyses, summaries, business records, or other documents to verify the franchisee's determination that it is not profitable to operate during the period or periods specified in the notice within 15 days after receipt of the franchisee's notice.

(2) If the franchisor fails to complete the preparation of the statements, studies, analyses, summaries, business records, or other documents within 30 days after the receipt of notice from the franchisee.

(3) If it is established pursuant to subdivisions (b) to (d), inclusive, that the operation of the service station is not profitable during the period or periods specified by the franchisee.

(f) For the purposes of this section, the terms "unprofitable" and "not profitable" shall mean that the amount of the gross revenues generated by the sales of motor fuels and other petroleum products, as well as related automotive accessories, is less than the amount of the expenses incurred by the franchisee to operate during the period or periods the franchisee specified in the written notice, including the proportionate costs for rent, labor, or other fixed or variable overhead costs that may be reasonably allocated to the operation of the service station during the period or periods that the franchisee specified in the written notice.

(g) This section shall not apply:

(1) Where specific hours of business or operation are required under the franchisor's prime lease or license from any governmental entity, airport, parking, marine or port authority, shopping center, or any private investor not affiliated with or controlled by the franchisor; or,

(2) Where the retail gasoline station subject to the franchise agreement is located within one-half mile access of any highway which is a part of the California freeway and expressway system, provided, however, that if there is not commercial property developed as a service station within one-half mile of an entry to or exit from any such highway, the exception shall extend to the first such development and extend one-quarter mile beyond in all directions. This section is also not applicable to any business which is not primarily a gasoline station, but which sells gasoline incidentally to its business.

CHAPTER 600

An act to amend Section 581a of the Code of Civil Procedure, relating to actions.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 581a of the Code of Civil Procedure is amended to read:

581a. (a) No action heretofore or hereafter commenced by complaint shall be further prosecuted, and no further proceedings shall be had therein, and all actions heretofore or hereafter commenced shall be dismissed by the court in which the action shall have been commenced, on its own motion, or on the motion of any

party interested therein, whether named as a party or not, unless the summons on the complaint is served and return made within three years after the commencement of the action, except where the parties have filed a stipulation in writing that the time may be extended or the party against whom the action is prosecuted has made a general appearance in the action.

(b) No action heretofore or hereafter commenced by cross-complaint shall be further prosecuted, and no further proceedings shall be had therein, and all actions heretofore or hereafter commenced shall be dismissed by the court in which the action shall have been commenced, on its own motion, or on the motion of any party interested therein, whether named as a party or not, unless, if a summons is not required, the cross-complaint is served within three years after the filing of the cross-complaint or unless, if a summons is required, the summons on the cross-complaint is served and return made within three years after the filing of the cross-complaint, except where the parties have filed a stipulation in writing that the time may be extended or, if a summons is required, the party against whom service would otherwise have to be made has made a general appearance in the action.

(c) All actions, heretofore or hereafter commenced, shall be dismissed by the court in which the action may be pending, on its own motion, or on the motion of any party interested therein, if no answer has been filed after either service has been made or the defendant has made a general appearance, if plaintiff fails, or has failed, to have judgment entered within three years after service has been made or such appearance by the defendant, except where the parties have filed a stipulation in writing that the time may be extended.

(d) The time during which the defendant was not amenable to the process of the court shall not be included in computing the time period specified in this section.

(e) A motion to dismiss pursuant to the provisions of this section shall not, nor shall any extension of time to plead after the motion, or stipulation extending time for service of summons and return thereof, constitute a general appearance.

(f) Except as provided in this section, the provisions of this section are mandatory and are not excusable, and the times within which acts are to be done are jurisdictional. Compliance may be excused only for either of the following reasons:

(1) Where the defendant or cross-defendant is estopped to complain.

(2) Where it would be impossible, impracticable, or futile to comply due to causes beyond a party's control. However, failure to discover relevant facts or evidence shall not excuse compliance.

CHAPTER 601

An act to add and repeal Section 37101.2 of the Government Code, relating to city business licenses.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 37101.2 is added to the Government Code, to read:

37101.2. (a) Whenever a city requires a license pursuant to Section 37101, solely for revenue purposes, and does not require the licensee to furnish verification of state licensure for the licensed activity, or the basis of exemption therefrom, the following statement shall be conspicuously printed upon the face of the license: "This license is issued without verification that the licensee is subject to or exempt from licensing by the State of California."

(b) A city subject to subdivision (a) may exhaust its supply of any printed license forms on hand which do not contain the statement required by that subdivision.

This section shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 602

An act making an appropriation to pay the settlement of the wrongful death claim of Kay M. Breneiser, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the State Department of Justice to pay the settlement of the claim of the

plaintiff against the State of California in the wrongful death action entitled Kay M. Breneiser v. State of California, No. 21911, brought in the Superior Court of the State of California for the County of Madera.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay the settlement arising out of an action brought by the plaintiff and ending a hardship to such person as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 603

An act to amend Section 188.8 of the Streets and Highways Code, relating to state highways.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 188.8 of the Streets and Highways Code is amended to read:

188.8. From the money expended pursuant to Section 188, the commission shall allocate and the department shall expend, or cause to be expended, in each county of County Group No. 1 and in each county of County Group No. 2 during the period commencing July 1, 1983, and ending June 30, 1987, and for each period of four years thereafter, not less than an amount computed as follows:

(a) The commission shall compute, for each period of four years, an amount equal to 70 percent of the money to be expended in County Groups Nos. 1 and 2, respectively, as provided in Section 188.

(b) From the amount computed for County Group No. 1 in subdivision (a) for each four-year period, the commission shall determine the minimum expenditure for each county in the group based on a formula which is based 75 percent on the population of the county to the total population of County Group No. 1 and 25 percent on state highway miles in the county to the total state highway miles in County Group No. 1.

(c) From the amount computed for County Group No. 2 in subdivision (a) for each four-year period, the commission shall determine the minimum expenditure for each county in the group based on a formula which is based 75 percent on the population of the county to the total population of County Group No. 2 and 25 percent on state highway miles in the county to the total state highway miles in County Group No. 2.

(d) A county board of supervisors may adopt a resolution to pool

its county minimum expenditure with adjacent counties adopting similar resolutions. The resolution shall provide for pooling the county minimum expenditures for expenditure in any of the pooling counties for a four-year period and shall be submitted to the commission not later than May 1 immediately preceding the commencement of the four-year period.

(e) Except as provided in this paragraph, the entire obligation under a contract awarded or a day labor project commenced during any of the periods shall be deemed an expenditure within the period in which the contract was awarded or day labor project commenced. Obligations under contracts which have been awarded or day labor projects which have been commenced, but which are to be budgeted over more than one fiscal year pursuant to Section 170, shall be deemed expenditures in each of the fiscal years in which the work is to be performed in an amount equal to the final amount budgeted for each of the fiscal years for the work.

(f) For the purpose of this section, the population in each county is that determined by the last preceding federal census, or a subsequent census validated by the Population Research Unit of the Department of Finance, at the beginning of each four-year period.

(g) For the purpose of this section, "state highway miles," are the miles of state highways open to vehicular traffic at the beginning of each four-year period.

(h) Notwithstanding subdivisions (a), (b), and (c), the commission shall program and allocate funds for projects that were included in the 1980 state transportation improvement program. This subdivision shall be limited to projects, as defined in the 1980 state transportation improvement program, and shall provide for inflationary cost increases, but shall not provide for cost increases which are caused by any change in the scope or nature of the project. This subdivision shall not apply to projects that cannot proceed due to changes in federal law or other causes beyond the commission's and department's authority. During the four-year period beginning July 1, 1983, the commission may deviate from subdivisions (a), (b), and (c) for the purpose of meeting the requirements of this subdivision, but shall make a reasonable effort to comply with subdivisions (a), (b), and (c).

CHAPTER 604

An act to amend Sections 1798.3, 1798.9, 1798.10, 1798.17, 1798.24, 1798.34, 1798.40, 1798.41, and 1798.42 of the Civil Code, relating to the Information Practices Act.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "confidential information" means any of the following:

(1) Any information in any record maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including efforts of the Department of Justice to prevent, control, or reduce crime or to apprehend criminals if the information is (i) compiled for the purpose of identifying individual criminal offenders and alleged offenders and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; or (ii) compiled for the purpose of a criminal investigation of suspected criminal activities, including reports of informants and investigators, and associated with an identifiable individual; or (iii) contained in any record which could identify an individual and which is compiled at any stage of the process of enforcement of the criminal laws, from the arrest or indictment stage through release from supervision and including the process of extradition or the exercise of executive clemency.

(2) Information consisting solely of written testing or examination material, or scoring keys used solely to determine individual qualifications for appointment or promotion in public service, or used to administer a licensing examination, or academic examination, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(3) Information containing medical, psychiatric or psychological material, if the holder of the record determines that disclosure of the information would be medically or psychologically detrimental to the individual. Such information shall, upon written authorization, be disclosed to a physician, psychiatrist or other licensed medical or psychological personnel designated by the data subject.

(4) Information, other than that referred to in paragraph (1) of subdivision (a), consisting solely of investigative materials maintained by an agency for the purpose of investigating a specific grievance, complaint, or violation of state law, but only so long as an investigation is in progress and such investigative information has not been maintained for a period longer than is necessary to complete a criminal, civil, or administrative prosecution or initiate other remedial action. An agency may keep the source or sources of information used for an investigation under this section confidential so long as it determines that confidentiality is necessary to protect its law enforcement activities.

(5) Records consisting of information used solely for the purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the

Welfare and Institutions Code.

(6) Any information which is required by statute to be withheld from the individual to whom it pertains.

(b) The term "personal information" means any information in any record about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical or employment history. It does not mean information found to be confidential or nonpersonal under subdivision (a) or (c) of Section 1798.3.

(c) The term "nonpersonal information" means all of the following:

(1) Information consisting only of names, addresses, telephone numbers and other limited factual data, which could not, in any reasonable way (i) reflect or convey anything detrimental, disparaging, or threatening to an individual's reputation, rights, benefits, privileges, or qualifications or (ii) be used by an agency to make a determination that would affect an individual's rights, benefits, privileges, or qualifications.

(2) An agency telephone book or directory which is used exclusively for telephone and directory information.

(3) Any card catalog of any library, or the contents of any book listed within such card catalog.

(4) Any mailing list which is used exclusively for the purpose of mailing agency information.

(5) Records required by law to be maintained and used solely as a system of statistical records, but only if such records are maintained for statistical research or reporting purposes only and are not used in whole or in part in making any determination about an identifiable individual.

(6) Records to which an individual has the right of examination pursuant to Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4 of the Penal Code.

(d) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records which contain personal information about the employees of the State Compensation Insurance Fund.

(e) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(f) The term "individual" means a natural person.

(g) The term "maintain" includes maintain, acquire, use, or disclose.

(h) The term "person" means any natural person, corporation,

partnership, firm, or association.

(i) The term "record" means any file or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical or employment history and that contains his or her name, identifying number, symbol, or other identifying particular assigned to the individual, including, but not limited to, a finger or voice print or photograph and is maintained by reference to such an identifying particular.

(j) The term "system of records" means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(k) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

(*l*) The term "commercial purpose" means any purpose which has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

SEC. 1.5. Section 1798.9 of the Civil Code is amended to read:

1798.9. Each agency maintaining a system of records containing personal or confidential information shall file with the Office of Information Practices the notice specified in Section 1798.10. Such notices shall be filed with that office by such agencies on the first day of July of each year. Such notices shall be permanent public records. The Office of Information Practices may establish regulations prescribing the form and method of updating the notices required by Section 1798.10 to implement this section. Any agency maintaining more than one system of records may combine such notices when convenient and appropriate. Upon a showing of good cause by an agency, the Office of Information Practices may extend the time for filing notices for a period not to exceed 120 days.

SEC. 2. Section 1798.10 of the Civil Code is amended to read:

1798.10. Notices required to be filed by Section 1798.9 shall specify each of the following:

(a) The name of the agency and the division within the agency that is maintaining the records containing personal or confidential information and the name or title of the system of records, if any, in which such information is maintained.

(b) A brief description of the kinds of personal and confidential information contained in the record system, including the categories of individuals and the approximate number of individuals on whom records containing personal or confidential information are maintained in the system.

(c) Each major use or purpose within the agency for the personal or confidential information within the system.

(d) Disclosures of the information that will be made pursuant to

subdivision (e) or (f) of Section 1798.24.

(e) The legal authority which authorizes the maintenance of personal or confidential information.

(f) Retention and disposal policies for the personal or confidential information.

(g) The general source or sources of the information in the system.

(h) The title and business address of the agency official responsible for maintaining the records.

(i) The procedures to be followed for an individual to gain access to, and contest the contents of, records containing personal information.

If an agency fails to file such a report, the office promptly shall inform the agency and if the agency fails to comply within 30 days thereafter, the office shall report on such violation in accordance with subdivision (b) of Section 1798.6.

SEC. 2.5. Section 1798.17 of the Civil Code is amended to read:

1798.17. Each agency shall provide with any form used to collect personal or confidential information from individuals the following notice unless the same information is already contained in the form itself or the individual has already received the same information during the previous year at the time of the request:

(a) The name of the agency and the division within the agency that is requesting the information.

(b) The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.

(d) With respect to each item of information, whether submission of such information is mandatory or voluntary.

(e) The consequences, if any, of not providing all or any part of the requested information.

(f) The principal purpose or purposes within the agency for which the information is to be used.

(g) Any known or foreseeable disclosures which may be made of the information pursuant to subdivisions (e) or (f) of Section 1798.24.

(h) The individual's right of access to records containing personal information which are maintained by the agency. This subdivision shall not apply to any confidential information.

The provisions of this section shall not apply to any enforcement document issued by an employee of a law enforcement agency in the performance of his or her duties wherein the violator is provided an exact copy of the document, or to accident reports whereby the parties of interest may obtain a copy of the report pursuant to Section 20012 of the Vehicle Code.

SEC. 3. Section 1798.24 of the Civil Code is amended to read:

1798.24. No agency may disclose any personal or confidential information unless the disclosure of such information is:

(a) To the individual to whom the record pertains.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit specified by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees, attorneys, or volunteers of the agency which has custody of the information if such disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and such use is compatible with a purpose for which the information was collected and such use or transfer is listed in the notice provided pursuant to Section 1798.9 or accounted for in accordance with the provisions of Section 1798.25.

(f) To a governmental entity when required by state or federal law.

(g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(h) To a person who has provided the agency with advance adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency which maintains the information that compelling circumstances exist which affect the health or safety of an individual, if upon such disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal law.

(j) To the State Archives of the State of California as a record which has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his designate to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify such individual to whom the record

pertains, and if such notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement agency when required for an investigation of unlawful activity, unless such disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from such person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law which the agency is responsible for enforcing.

(q) Personal information only to the Office of Information Practices when the transfer is necessary for that office to investigate a complaint it has received regarding an alleged violation of any provision of this chapter or to perform its mediation functions, provided that the Office of Information Practices has received the written voluntary consent of the individual to whom the information pertains for such a transfer.

(r) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that such information does not include or reveal the identity of the natural parents.

(s) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the Member, where such Member has permission to obtain the information from the individual to whom it pertains or where the Member provides reasonable assurance that he or she is acting in behalf of the individual.

(t) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information includes assurances of the need for personal or confidential information, procedures for protecting the confidentiality of the information and assurances that the personal identity of the subject shall not be further disclosed in individually identifiable form.

The provisions of this article shall not be construed to require the disclosure of confidential information to the individual to whom the information pertains.

SEC. 4. Section 1798.34 of the Civil Code is amended to read:

1798.34. (a) Each agency shall permit any individual upon request and proper identification to inspect all the personal information in any record containing personal information and maintained by reference to an identifying particular assigned to such individual within 30 days of the request for active records, and within 60 days of the request for inactive records that are in central storage.

Failure to respond within these time limits shall be deemed denial. In addition, such individual shall be permitted to inspect any record containing personal information in which an identifying particular assigned to such individual appears, if the agency knows or should know that such a record exists. The individual also shall be permitted to inspect the accounting made pursuant to Article 7 (commencing with Section 1798.25) of this chapter.

(b) The agency shall permit the individual, and, upon the individual's request, another person of the individual's own choosing to inspect all the personal information in the record and have an exact copy made of all or any portion thereof within 15 days of such inspection. It may require the individual to furnish a written statement authorizing disclosure of such individual's record to another person of the individual's choosing.

(c) The agency shall present the information in the record in a form reasonably comprehensible to the general public.

(d) Whenever an agency is unable to access a record by reference to name only, or when access by name only would impose an unreasonable administrative burden, it may require the individual to submit such other identifying information as will facilitate access to the record.

(e) When an individual is entitled under this chapter to gain access to the information in a record containing personal information, such information or a true copy thereof shall be made available to the individual at a location near the residence of the individual or by mail, whenever reasonable.

SEC. 5. Section 1798.40 of the Civil Code is amended to read:

1798.40. (a) Except as provided in subdivision (c), if the agency determines that information requested pursuant to Section 1798.34 is confidential it shall inform the individual in writing of the agency's finding that the information contained in the record is confidential, and that disclosure of the contents is not required by law.

(b) Except as provided in subdivision (c), each agency shall conduct a review of its determination that particular information is confidential, as defined in this chapter, within 30 days from the receipt of a request by an individual directly affected by such determination, and inform the individual in writing of the findings of such review. The review shall be conducted by the head of such agency or an official specifically designated by the head of such agency.

(c) If the agency believes that compliance with subdivision (a) of this section would seriously interfere with attempts to apprehend persons who are wanted for committing a crime or attempts to prevent the commission of a crime or would endanger the life of an informant or other person submitting information contained in the confidential record, it may petition the presiding judge of the superior court of the county in which the record is maintained to issue an ex parte order authorizing the agency to respond to the individual that no record is maintained. All proceedings before the

court shall be in camera. If the presiding judge finds that there are reasonable grounds to believe that compliance with subdivision (a) will seriously interfere with attempts to apprehend persons who are wanted for committing a crime or attempts to prevent the commission of a crime or will endanger the life of an informant or other person submitting information contained in the confidential record, he shall issue an order authorizing the agency to respond to the individual that no record is maintained by the agency. Such order shall not be issued for longer than 30 days but can be renewed at thirty (30) day intervals. If a request pursuant to this section is received after the expiration of the order, the agency must either respond pursuant to subdivision (a) or seek a new order pursuant to this subdivision.

SEC. 6. Section 1798.41 of the Civil Code is amended to read:

1798.41. In disclosing information contained in a record to an individual, an agency shall not disclose any personal information relating to another individual which may be contained in such record. To comply with this section, an agency shall, in disclosing information, delete from disclosure such information as may be necessary. This section shall not be construed to authorize withholding the indentities of sources except as provided in Sections 1798.3 and 1798.38.

SEC. 7. Section 1798.42 of the Civil Code is amended to read:

1798.42. In disclosing information contained in a record to an individual, an agency need not disclose any confidential information pertaining to that individual which may be contained in a record containing personal information. To comply with this section, an agency may, in disclosing personal information contained in a record, delete from such disclosure any confidential information.

CHAPTER 605

An act to amend Sections 116 and 117.12 of, and to add Section 117.22 to, the Code of Civil Procedure, relating to small claims court.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 116 of the Code of Civil Procedure is amended to read:

116. (a) In each justice and municipal court there shall be a small claims division. The Judicial Council shall provide by rule for the practice and procedure and for the forms and use in proceedings in such division consistent with the provisions of this chapter. Each small claims division may formulate and distribute to litigants and the public a manual on small claims court rules and procedures. The

manual shall explain how to fill out the necessary forms, how to determine the proper court to hear the matter, how to take defaults and have them set aside, how to pursue or defend against claims, how to appeal, how to collect after judgment, how to protect property that is exempt from execution, and such other matters as the court deems necessary or desirable.

(b) Provided that the department determines there are sufficient private or public funds available in addition to the funds available within the department's current budget in order to print an adequate number of manuals, the Department of Consumer Affairs, in cooperation with the Judicial Council, shall prepare a manual on small claims court rules and procedures for distribution to the general public. The manual shall be designed to provide information regarding the use of the small claims court and the manner in which defaults can be avoided. The department shall distribute sufficient copies of the manual to each small claims division.

(c) The Judicial Council, in cooperation with the Department of Consumer Affairs, shall, if federal or other funding is available, formulate and distribute to each judge who sits in a small claims court a bench book describing all state and federal consumer protection laws reasonably likely to be applicable in actions brought in that court.

SEC. 2. Section 117.12 of the Code of Civil Procedure is amended to read:

117.12. The judgment of the superior court shall be final and not appealable. If the judgment is affirmed in whole or in part or the appeal is dismissed, the defendant shall pay to the plaintiff the amount of the judgment as affirmed, together with interest and costs and the sum of fifteen dollars ($15) as an attorney's fee upon such terms and conditions as the judge shall prescribe.

SEC. 3. Section 117.22 is added to the Code of Civil Procedure, to read:

117.22. (a) Prior to March 1, 1983, there shall be established an advisory committee, constituted as set forth in subdivision (b), to study small claims practice and procedure, with particular attention given to the improvement of procedures for the collection of judgments. The members of the advisory committee shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties. Such advisory committee shall report its findings and recommendations to the Judicial Council and the Legislature no later than December 1, 1984.

(b) The advisory committee shall be composed, as follows:

(1) The Attorney General or a representative.

(2) Two consumer representatives from consumer groups or agencies to be appointed by the Secretary of the State and Consumer Services Agency.

(3) One representative appointed by the Speaker of the Assembly and one representative appointed by the President pro Tempore of

the Senate.

(4) Two representatives to be appointed by the Board of Governors of the State Bar.

(5) Two representatives of the business community to be appointed by the Secretary of the Business, Transportation, and Housing Agency.

(6) Six judges of the municipal court or justice court who have extensive experience presiding in small claims court, to be appointed by the Judicial Council.

(7) One representative appointed by the Governor.

(8) Two clerks of the court to be appointed by the Judicial Council.

(c) Staff assistance to the advisory committee shall be provided by the Department of Consumer Affairs, with the assistance of the Judicial Council, as needed.

(d) This section shall become operative only if the Department of Consumer Affairs determines that sufficient private or public funds are available in addition to the funds available in the department's current budget to cover the costs imposed pursuant to this section.

CHAPTER 606

An act to amend Section 11506 of the Government Code, relating to administrative adjudication.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 11506 of the Government Code is amended to read:

11506. (a) Within 15 days after service upon him of the accusation the respondent may file with the agency a notice of defense in which he may:

(1) Request a hearing.

(2) Object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation on the ground that it is so indefinite or uncertain that he cannot identify the transaction or prepare his defense.

(4) Admit the accusation in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

Within the time specified respondent may file one or more notices

of defense upon any or all of these grounds but all such notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(b) The respondent shall be entitled to a hearing on the merits if he files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file such notice shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation shall be deemed waived.

(c) The notice of defense shall be in writing signed by or on behalf of the respondent and shall state his mailing address. It need not be verified or follow any particular form.

(d) Respondent may file a statement by way of mitigation even if he does not file a notice of defense.

CHAPTER 607

An act to amend Section 7028 of the Business and Professions Code, relating to contractors.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 7028 of the Business and Professions Code is amended to read:

7028. It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless such person is particularly exempted from the provisions of this chapter. If such a person has been previously convicted of the offense described in this section, the court shall impose a fine of not less than one hundred dollars ($100) nor more than two thousand dollars ($2,000), or imprisonment in the county jail for not less than 10 days nor more than six months, or both. Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section with respect to work done by the unlicensed contractor shall be found or an information or complaint filed within three years from the date of completion of the work.

CHAPTER 608

An act to amend Sections 6751 and 8742 of, and to repeal and add Section 6753 to, the Business and Professions Code, relating to the Board of Registration for Professional Engineers.

[Approved by Governor August 25, 1982. Filed with Secretary of State August 25, 1982.]

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

SECTION 1. Section 6751 of the Business and Professions Code is amended to read:

6751. (a) The applicant for registration as a professional engineer shall:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480;

(2) Except as provided in Section 6767, furnish evidence of six years or more of experience in engineering work satisfactory to the board evidencing that applicant is competent to practice the character of engineering in the branch for which he is applying for registration, and successfully pass the second division of the examination.

(b) The applicant for certification as an engineer-in-training shall:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480;

(2) Successfully pass the first division of the examination.

SEC. 2. Section 6753 of the Business and Professions Code is repealed.

SEC. 3. Section 6753 is added to the Business and Professions Code, to read:

6753. With respect to applicants for registration as professional engineers, the board:

(a) Shall count graduation from an engineering school or college where the curriculum has been approved as four years of experience and each year of study completed without graduation in an engineering school or college where the curriculum has been approved as one-half year of experience, except that applicants for registration in any branch of professional engineering shall not receive credit for more than four years of experience because of undergraduate educational qualifications. The board may, in its discretion consider graduation in a nonapproved engineering curriculum or graduation in an approved engineering technology curriculum, as equivalent to not more than two years' experience.

(b) May at its discretion give credit as experience not in excess of one year, for satisfactory postgraduate work in a school of engineering where the curriculum has been approved by the board.

(c) May consider engineering teaching, if of a character satisfactory to the board, as engineering experience not in excess of

one year.

(d) May at its discretion give credit as experience not in excess of four years, for successfully passing the first division of the examination prescribed in Section 6755.

SEC. 4. Section 8742 of the Business and Professions Code is amended to read:

8742. (a) The educational qualifications and experience in land surveying, which an applicant for the second division examination shall possess, shall be not less than the following prescribed minima:

(1) Graduation from a four-year curriculum with an emphasis in land surveying approved by the board or accredited by a national or regional accrediting agency recognized by the United States Office of Education at a postsecondary educational institution and two years of actual experience in land surveying, including one year of responsible field training and one year of responsible office training; or

(2) Actual experience in land surveying for at least six years, including one year of responsible field training and one year of responsible office training; or

(3) Registration as a civil engineer.

(b) With respect to applicants for license as a land surveyor, the board:

(1) Shall count one year of postsecondary education in land surveying as one year of experience in land surveying up to a maximum of four years, provided the applicant has graduated from the course in land surveying and the curriculum in land surveying is approved by the board or is accredited by a regional or national accrediting agency recognized for the purpose by the United States Office of Education. Each year of study in an approved or an accredited course in land surveying without graduation shall be counted the same as one-half year of experience.

Each applicant claiming equivalent credit for education may be required to produce a complete transcript of all college level courses completed.

(2) May at its discretion give credit as experience in land surveying, not in excess of two years, for successfully passing the first division of the examination prescribed in Section 8741.

CHAPTER 609

An act to add and repeal Section 21606 of the Public Utilities Code, relating to aviation.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 21606 is added to the Public Utilities Code, to read:

21606. The department may assist any political subdivision in the development of regional and local heliport system plans.

This section shall remain in effect only until January 1, 1985, and on that date is repealed, unless a later enacted statute chaptered on or before January 1, 1985, deletes or extends that date.

CHAPTER 610

An act to amend Sections 4808, 4850, 4851, and 4853 of, to amend and repeal Section 3005.7 of, to amend, add, and repeal Section 3950 of, to add Sections 4855 and 4856 to, to repeal Chapter 10.5 (commencing with Section 4850) of Part 3 of Division 4 of, and to repeal and add Sections 4854 and 4189 of, the Fish and Game Code, relating to mountain lions.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 3005.7 of the Fish and Game Code is amended to read:

3005.7. It is unlawful to capture any mountain lion or to possess or confine any live mountain lion taken from the wild, except as provided by this code or regulations made pursuant thereto. Any mountain lion possessed or confined in violation of this section shall be seized by the department.

The commission may promulgate regulations permitting the temporary confinement of mountain lions for the purpose of treating them, if injured or diseased.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1986, deletes or extends that date.

SEC. 2. Section 3950 of the Fish and Game Code is amended to read:

3950. Game mammals are: deer (genus Odocoileus), elk (genus Cervus), prong-horned antelope (genus Antilocapra), feral pigs and European wild boars (genus Sus), black and brown or cinnamon bears (genus Euarctos), jackrabbits and varying hares (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus), and tree squirrels (genus Sciurus and Tamiasciurus).

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1986, deletes or extends that date.

SEC. 3. Section 3950 is added to the Fish and Game Code, to read:

3950. Game mammals are: deer (genus Odocoileus), elk (genus Cervus), prong-horned antelope (genus Antilocapra), feral pigs and European wild boars (genus Sus), black and brown or cinnamon bears (genus Euarctos), mountain lions (genus Felis), jackrabbits and varying hares (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus), and tree squirrels (genus Sciurus and Tamiasciurus).

This section shall become operative on January 1, 1986.

SEC. 4. Section 4189 of the Fish and Game Code is repealed.

SEC. 5. Section 4189 is added to the Fish and Game Code, to read:

4189. Any owner or tenant, or the agent of the owner or tenant, of land or property that is being damaged or destroyed or is in immediate danger of being damaged or destroyed by mountain lions may take those mountain lions at any time and in any manner except by means of poison or traps. The taking of the mountain lion shall be reported in writing within 30 days to the Department of Fish and Game headquarters office in Sacramento.

This section shall become operative on January 1, 1986.

SEC. 6. Section 4808 of the Fish and Game Code is amended to read:

4808. This chapter shall become operative on January 1, 1986.

SEC. 7. Section 4850 of the Fish and Game Code is amended to read:

4850. (a) The mountain lion (genus Felis) is a specially protected mammal under the laws of this state.

(b) It is unlawful to take, injure, possess, transport, import, or sell any mountain lion or parts thereof, except as otherwise provided in this chapter or in Article 1.5 (commencing with Section 1000) of Chapter 3 of Division 2, or except as authorized under a domestic game breeder's license.

(c) Any violation of this section is a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one year or a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 8. Section 4851 of the Fish and Game Code is amended to read:

4851. (a) Any person, or the employee of a person, whose livestock is being or has been damaged or destroyed by a mountain lion may report that fact to the department on or before the next day the offices of the department are open following discovery of the damage or destruction.

(b) The department shall conduct and complete an investigation within 48 hours of receiving the report, and, if satisfied that there has been depredation by a mountain lion as reported, may promptly issue a permit, to expire 10 days after issuance, to the person, or the employee or agent of the person, whose livestock was damaged or destroyed by the mountain lion. The permit shall authorize the holder to begin pursuit not more than one mile from the livestock depredation site, and to take the depredating mountain lion up to 10

miles from the location of the reported damage or destruction. No mountain lion shall be taken pursuant to this section except by a person eligible to be issued a hunting license pursuant to Articles 2 (commencing with Section 3031) and 2.5 (commencing with Section 3049) of Chapter 1 of Part 1 of Division 4.

(c) Any person issued a permit pursuant to this section shall report by phone within 24 hours the capturing, injuring, or killing of any mountain lion thereunder to an office of the department if the taking thereof has not already been reported pursuant to subdivision (a); or, if telephoning is not practicable, then in writing within five days after the capturing, injuring, or killing of the mountain lion. The holder of the permit shall also turn over the entire carcass of the mountain lion to a representative of the department in a timely manner, and shall make arrangements therefor at the time of making the report to the department required by this subdivision.

(d) Any mountain lion that is encountered while in the act of inflicting injury to, or killing, livestock may be taken immediately by the owner of the livestock or the owner's employee so long as the taking is promptly reported to the department, the department investigates the depredation, and the carcass is turned over to the department, as provided in this section. Upon satisfactorily completing the investigation and receiving the carcass, the department shall issue a permit confirming that the requirements of this section have been met with respect to the particular mountain lion taken under these circumstances.

SEC. 9. Section 4853 of the Fish and Game Code is amended to read:

4853. Nothing in this chapter shall prohibit the department or its authorized agents from pursuing or capturing mountain lions alive for the purpose of scientific research.

SEC. 10. Section 4854 of the Fish and Game Code is repealed.

SEC. 11. Section 4854 is added to the Fish and Game Code, to read:

4854. The department may issue a permit to any person to pursue any mountain lion, subject to the regulations of the commission.

No mountain lion may be captured, injured, or killed pursuant to a permit issued under this section.

SEC. 12. Section 4855 is added to the Fish and Game Code, to read:

4855. When the department confirms with written findings that numerous and repeated individual incidents of damage to livestock, which cannot be controlled under individual depredation permits, have been caused by mountain lions, the department shall notify the commission. The commission shall direct the department to develop a plan for the management of mountain lions within the area of concern, with the objective of the plan being to maintain a healthy, viable mountain lion population and to alleviate economic losses in compliance with Section 1801. After receiving the plan and holding at least one public hearing in the area concerned, the commission

may direct the take of mountain lions by departmental personnel or persons under contract to the department.

SEC. 13. Section 4856 is added to the Fish and Game Code, to read:

4856. This chapter shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1986, deletes or extends that date.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 611

An act to add Sections 3236.5 and 3754.5 to the Public Resources Code, relating to oil and gas.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 3236.5 is added to the Public Resources Code, to read:

3236.5. (a) Any person who violates any provision of this chapter may be liable, in lieu of the penalty specified in Section 3236, for a civil penalty not to exceed five hundred dollars ($500) for each violation.

(b) The Attorney General, upon the request of the supervisor, shall bring a civil action to impose and recover those amounts.

(c) Any amount collected under this section shall be deposited in the General Fund.

SEC. 2. Section 3754.5 is added to the Public Resources Code, to read:

3754.5. (a) Any person who violates any provision of this chapter may be liable, in lieu of the penalty specified in Section 3754, for a civil penalty not to exceed five hundred dollars ($500) for each violation.

(b) The Attorney General, upon the request of the supervisor, shall bring a civil action to impose and recover those amounts.

(c) Any amount collected under this section shall be deposited in the General Fund.

CHAPTER 612

An act to amend Sections 13556 and 14904 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982]

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

SECTION 1. Section 13556 of the Vehicle Code is amended to read:

13556. (a) Unless otherwise specifically provided in this chapter, no suspension of a license by the department shall be for a longer period than six months, except that the department may suspend a license for a maximum period of 12 months in those cases when a discretionary revocation would otherwise be authorized pursuant to this chapter.

(b) Any discretionary suspension, the ending of which is dependent upon an action by the person suspended and which has been in effect for eight years, may be ended at the election of the department.

(c) Notwithstanding any other provisions of this code, a suspension based upon a physical or mental condition shall continue until evidence satisfactory to the department establishes that the cause for which the action was taken has been removed or no longer renders the person incapable of operating a motor vehicle safely.

SEC. 2. Section 14904 of the Vehicle Code is amended to read:

14904. (a) Notwithstanding any other provision of this code, before a driver's license may be issued, reissued, or returned to the licensee after a suspension or a revocation of a person's driving privilege ordered by the department has been terminated or reinstated, there shall, in addition to any other fees required by this code, be paid the department a fee sufficient to pay the actual costs of the issuance, reissuance, or return as determined by the department.

(b) This section shall not apply to any suspension or revocation that is set aside by the department or a court.

(c) This section shall not apply to any suspension or revocation based upon a physical or mental condition.

CHAPTER 613

An act to amend Section 49554 of the Education Code, relating to schools.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 49554 of the Education Code is amended to read:

49554. Any school district or county superintendent of schools which has had no food service employees since July 1, 1977, or has inadequate or no food preparation facilities as determined by the State Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract for the preparation, delivery, and service of those meals. Any contract for the preparation, delivery, and service of meals shall not be deemed to establish food service positions for the purposes of Section 39902.

Prior to contracting for preparation, delivery, and service of such meals, a school district shall certify to the State Department of Education that no school district in the county nor the county superintendent of schools has the facilities and is willing to furnish those services.

CHAPTER 614

An act to amend Section 384.5 of the Penal Code, relating to crimes.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 384.5 of the Penal Code is amended to read:

384.5. (a) Except within the Counties of Santa Barbara, Ventura, Los Angeles, Orange, San Diego, San Bernardino, Riverside, and Imperial, any person who removes any minor forest products from the property where such products were cut and transports such products upon any public road or highway shall have in his or her possession a valid bill of sale for such products or a written permit issued by the owner of the property from which such products were removed authorizing such removal and transport. Any such permit or bill of sale shall include, but is not limited to, all of the following:

(1) The name, address, and signature of the landowner, and phone number, if available.

(2) The name, address, and signature of the permittee or purchaser.

(3) The amount, species, and type of minor forest products to be removed and transported.

(4) A description sufficient to identify the property from which

the minor forest products are to be removed.

(5) The date of issuance of the permit or bill of sale and the duration of the period of time within which the minor forest products may be removed.

(6) Such conditions or additional information which the landowner may impose or include.

Any permit for the removal of minor forest products from public lands that is issued by the United States Forest Service or the Bureau of Land Management is sufficient for the purposes of this subdivision, regardless of whether such permit conforms to the specific requirements as to content set forth in this subdivision.

For the purposes of this subdivision "minor forest products" means firewood, posts, shakeboards, shake and shingle bolts, or split products, in quantities exceeding 20 cubic feet in volume, and burlwood or stumps, in quantities of two or more.

(b) The provisions of this section shall not apply to the transport of any minor forest products carried in a passenger vehicle, as defined in Section 465 of the Vehicle Code.

(c) Violation of subdivision (a) is a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or by imprisonment in a county jail for not more than six months or by both such fine and imprisonment.

CHAPTER 615

An act to amend Sections 70631 and 70632 of the Food and Agricultural Code, relating to plants, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 70631 of the Food and Agricultural Code is amended to read:

70631. The following native plants, or any parts thereof, may not be harvested except for scientific or educational purposes under a permit issued by the commissioner of the county in which the native plants are growing:

(a) All species of Burseraceae family (elephant tree).
(b) Carnegiea gigantea (sahuaro cactus).
(c) Ferocactus acanthodes (barrel cactus).
(d) Castela emoryi (crucifixion thorn).
(e) Dudleya saxosa (panamint dudleya).
(f) Pinus longaeva (bristlecone pine).
(g) Washingtonia filifera (fan palm).

SEC. 2. Section 70632 of the Food and Agricultural Code is amended to read:

70632. The following native plants, or any part thereof, may not

be harvested except under a permit issued by the agricultural commissioner or the sheriff of the county in which the native plants are growing:

(a) All species of the family Agavaceae (century plants, nolinas, yuccas).

(b) All species of the family Cactaceae (cacti), except for the plants listed in subdivisions (b) and (c) of Section 70631 which may be harvested under a permit obtained pursuant to that section.

(c) All species of the family Fouquieriaceae (ocotillo, candlewood).

(d) All species of the genus Prosopis (mesquites).

(e) All species of the genus Cercidium (palos verdes).

(f) Acacia greggii (catclaw).

(g) Atriplex hymenelytra (desert-holly).

(h) Dalea spinosa (smoke tree).

(i) Olneya tesota (desert ironwood), including both dead and live desert ironwood.

The fruit from the native plants listed in this section may be harvested without a permit.

The commissioner may establish limits on the quantity of desert ironwood which may be taken under any permit and on the number of permits for the taking of desert ironwood which may be issued. The county agricultural commissioner may adopt such rules and regulations as may be necessary for the protection of the ironwood resource.

Notwithstanding the foregoing provisions of this section, the director may add desert ironwood to, or remove it from, the jurisdiction of this division pursuant to Section 70633.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to conform state law respecting endangered native plants to federal law, it is necessary that this act take effect immediately.

CHAPTER 616

An act to add Section 816 to the Government Code, and to amend Sections 321, 640, 641, 642, 643, and 643.1 of, and to add Section 642.1 to, the Military and Veterans Code, relating to military service.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 816 is added to the Government Code, to read:

816. A public entity is not liable for injury arising out of any activity conducted by a member of the California National Guard pursuant to Section 316, 502, 503, 504, or 505 of Title 32 of the United States Code and compensated pursuant to the Federal Tort Claims Act.

It is the intent of the Legislature, in enacting this section, to conform state law regarding liability for activities of the National Guard to federal law as expressed in Public Law 97-124.

SEC. 2. Section 321 of the Military and Veterans Code is amended to read:

321. Enlisted personnel, while on active duty in the service of the state, shall receive the same pay and allowances as enlisted personnel of similar grade in the United States Army, United States Air Force, and United States Navy, except that enlisted personnel in the pay grade of E1 through E4 ordered to active duty pursuant to Section 143 or 146 shall receive not less than the minimum daily rate of pay applicable to pay grade of E5 in the active military service of the United States while on such active duty. It is the intent of the Legislature that the foregoing minimum payments to enlisted men in the pay grade of E1 through E4 may be paid from the State Emergency Fund when, in the judgment of the Director of Finance, there is a case of actual necessity for which no appropriation has been made. All full-time active duty previously or hereafter performed in the service of the state shall be credited for purposes of determining longevity and service within the provisions of this section and Section 340.

SEC. 3. Section 640 of the Military and Veterans Code is amended to read:

640. The following decorations are authorized for members of the National Guard, State Military Reserve, and Naval Militia:

(a) Medal of Valor
(b) Military Cross
(c) Order of California
(d) Medal of Merit
(e) Commendation Ribbon
(f) Service Medal
(g) Good Conduct Medal

The Order of California, Medal of Merit and Commendation Ribbon are also authorized for award to civilians and members of other military services who bring honor to the State of California by their actions.

The Commanding General of the State Military Forces may provide and procure appropriate emblematic devices for each such decoration, together with suitable ribbons and insignia to be worn therewith or in lieu thereof.

SEC. 4. Section 641 of the Military and Veterans Code is amended to read:

641. A Medal of Valor may be presented to each person who, while an officer or enlisted member of the National Guard or Naval Militia, distinguishes himself or herself by courageous conduct at the risk of life, above and beyond the call of duty while in the service of the state or of the United States.

No award of the Medal of Valor shall be made except upon clear and incontestable proof by affidavit of at least one eyewitness or person having personal knowledge of the act or deed.

A Medal of Valor may be presented to each person who has been awarded the Congressional Medal of Honor, and proof by affidavit or otherwise of the act or deed shall not be required in those cases.

SEC. 5. Section 642 of the Military and Veterans Code is amended to read:

642. A Military Cross may be presented to each person who, while an officer or enlisted member of the National Guard or Naval Militia, distinguishes himself or herself by extraordinary heroism while in the service of the state or of the United States.

SEC. 6. Section 642.1 is added to the Military and Veterans Code, to read:

642.1. The Order of California may be presented to an officer or enlisted member of the National Guard or Naval Militia who has distinguished himself or herself by exceptionally meritorious conduct in the performance of outstanding service to the state or the United States in a position of great responsibility. The performance of duty shall have been such as to merit recognition of service rendered in a clearly exceptional manner within the scope of a special requirement or of an extremely difficult duty performed in a clearly outstanding manner. Performance of duties normal to the grade and branch, specialty or assignment, and experience of an individual is not an adequate basis for this decoration, except that justification of the award may accrue by virtue of outstanding meritorious service in a succession of important positions.

The accomplishment of the duty or period of service for which the decoration is recommended should have been completed prior to submitting a recommendation. However, if the person being recommended is transferred or will retire prior to completion, the action or accomplishment shall have reached a point of progression that will clearly establish the individual's contribution to be outstanding or represent significant accomplishment.

The Order of California may also be awarded to civilians and members of other military services who distinguish themselves as indicated in this section.

SEC. 7. Section 643 of the Military and Veterans Code is amended to read:

643. A Medal of Merit may be presented to each person who, while an officer, warrant officer, or enlisted member of the National Guard or Naval Militia, distinguishes himself or herself by

exceptionally meritorious service to the state or the United States in a duty of great responsibility or to any person who, by unselfish and untiring activities in connection with the National Guard or Naval Militia, has rendered a distinct service in furthering the interests of and in promoting the security and welfare of the state.

The Medal of Merit may also be awarded to civilians and members of other military services who distinguish themselves as indicated in this section.

SEC. 8. Section 643.1 of the Military and Veterans Code is amended to read:

643.1. A commendation ribbon with pendant may be presented to each person who, while an officer, warrant officer, or enlisted member of the National Guard, State Military Reserve, or Naval Militia distinguishes himself or herself while serving in any capacity with the National Guard, State Military Reserve, or Naval Militia by meritorious achievement or meritorious service. The meritorious achievement or meritorious service is less exceptional than that required for the Medal of Merit but shall be accomplished with distinction.

The commendation ribbon with pendant may also be awarded to civilians and members of other military services who distinguish themselves as indicated in this section.

CHAPTER 617

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.

Horticultural protection districts.
Housing authorities.
Industrial development authority.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.

Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control districts.
Zones of flood control and water conservation districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the

Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving an alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of said matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the First Validating Act of 1982.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act

take immediate effect.

CHAPTER 618

An act to amend and renumber Section 2115 of, and to add Section 2115 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 2115 of the Public Utilities Code is amended and renumbered to read:

1710. No documents or records of a public utility or person or corporation which purport to be statements of fact shall be admitted into evidence or shall serve as any basis for the testimony of any witness, unless the documents or records have been certified under penalty of perjury by the person preparing or in charge of preparing them as being true and correct. If the person preparing them is dead or has been declared incompetent, any other person having knowledge of such statements of fact may certify the records. If certification pursuant to this section is not possible for any reason, the documents or records shall not be admitted into evidence unless admissible under the Evidence Code.

This section shall not apply to any documents not prepared, directly or indirectly, by, or under the supervision or direction of, the public utility or person or corporation offering the documents into evidence.

SEC. 2. Section 2115 is added to the Public Utilities Code, to read:

2115. Whenever the commission determines that a railroad corporation has violated any order of the commission concerning the adequacy, condition, or safety of the corporation's cars or tracks or any related fixture or appliance, the commission may impose upon the corporation a fine of not exceeding two thousand dollars ($2,000) for each violation or a fine of not exceeding two hundred dollars ($200) for each day that a violation continues uncorrected. The commission may assess interest upon any fine imposed, which shall commence upon the day the payment of the fine is delinquent.

CHAPTER 619

An act to amend Sections 1791 and 1793.02 of the Civil Code, relating to consumer warranties.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used or bought for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(h) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(i) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling consumer goods to retail buyers.

(j) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (h).

(k) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(*l*) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product.

(m) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(n) "Catalogue or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

SEC. 2. Section 1793.02 of the Civil Code is amended to read:

1793.02. (a) All new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: "This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws." In lieu of the words "30 days" the retail seller may specify any longer period.

(b) The language prescribed in subdivision (a) shall appear on the first page of the warranty in at least 10-point bold type. The warranty shall be delivered to the buyer at the time of the sale of the device.

(c) If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be cancelled all contracts, instruments, and security agreements executed by the buyer in connection with

the sale. When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.

(d) With respect to the retail sale of an assistive device to an individual, organization, or agency known by the seller to be purchasing for the ultimate user of the device, this section and subdivision (b) of Section 1792.2 shall be construed to require that the device be specifically fit for the particular needs of the ultimate user.

(e) This section and subdivision (b) of Section 1792.2 shall not apply to any of the following sales of assistive devices:

(1) A catalogue or similar sale, as defined in subdivision (n) of Section 1791.

(2) A sale which involves a retail sale price of less than fifteen dollars ($15).

(3) A surgical implant performed by a physician and surgeon, or a restoration or dental prosthesis provided by a dentist.

(f) The rights and remedies of the buyer under this section and subdivision (b) of Section 1792.2 are not subject to waiver under Section 1792.3. The rights and remedies of the buyer under this section and subdivision (b) of Section 1792.2 are cumulative, and shall not be construed to affect the obligations of the retail seller or any other party or to supplant the rights or remedies of the buyer under any other section of this chapter or under any other law or instrument.

(g) Section 1795.5 shall not apply to a sale of used assistive devices, and for the purposes of the Song-Beverly Consumer Warranty Act the buyer of a used assistive device shall have the same rights and remedies as the buyer of a new assistive device.

(h) The language in subdivision (a) shall not constitute an express warranty for purposes of Sections 1793.2 and 1793.3.

CHAPTER 620

An act to amend Section 10144 of, and to repeal Section 10650 of, the Insurance Code, relating to discrimination.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 10144 of the Insurance Code is amended to read:

10144. No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1984, shall refuse to insure, or refuse to continue to insure, or limit the

amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of blindness, partial blindness, or a physical or mental impairment, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual and reasonably anticipated experience.

"Blindness or partial blindness" means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees, certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist.

"Physical or mental impairment" means any physical, sensory, or mental impairment which substantially limits one or more of that person's major life activities.

SEC. 2. Section 10650 of the Insurance Code is repealed.

SEC. 3. This act shall become operative on January 1, 1984.

CHAPTER 621

An act to amend Section 1141.23 of the Code of Civil Procedure, relating to judicial arbitration.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1141.23 of the Code of Civil Procedure is amended to read:

1141.23. The arbitration award shall be in writing, signed by the arbitrator and filed in the court in which the action is pending. If there is no request for a de novo trial and the award is not vacated, the award shall be entered in the judgment book in the amount of the award. Such award shall have the same force and effect as a judgment in any civil action or proceeding, except that it is not subject to appeal and it may not be attacked or set aside except as provided by Section 473, 1286.2, or Judicial Council rule.

CHAPTER 622

An act to amend Sections 1063.5 and 1063.14 of the Insurance Code, relating to insurance guarantee, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982]

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

SECTION 1. Section 1063.5 of the Insurance Code is amended to read:

1063.5. Each time an insurer becomes insolvent then, to the extent necessary to secure funds for the association for payment of covered claims of that insolvent insurer and also for payment of reasonable costs of adjusting such claims, the association shall collect premium payments from its member insurers sufficient to discharge its obligations. The association shall allocate its claim payments and costs, incurred or estimated to be incurred, to one or more of the following categories: (a) workers' compensation claims; (b) automobile claims, which shall include: automobile material damage, automobile liability (both personal injury and death and property damage), medical payments and uninsured motorist claims; and (c) claims other than workers' compensation and automobile, as above defined. Separate premium payments shall be required for each category. The premium payments for each category shall be used to pay the claims and costs allocated to such category. The rate of premium charged shall be a uniform percentage of net direct written premium in the preceding calendar year applicable to such category. The rate of premium charges to each member in the appropriate categories shall initially be based on the written premium of each insurer as shown in the latest year's annual financial statement on file with the commissioner. The initial premium shall be adjusted by applying the same rate of premium charge as initially used to each insurer's written premium as shown on the annual statement for the year following the year in which the initial premium charge is made. The difference between the initial premium charge and the adjusted premium charge shall be refunded or charged to each member insurer by the association as soon as practical after the filing of the annual statements of the member insurers with the commissioner for the year on which the adjusted premium is based. "Net direct written premiums" shall mean the amount of gross premiums, less return premiums and policyholder's dividends paid or allowed, received in such calendar year upon business done in this state, other than premiums received for reinsurance. In cases of a dispute as to the amount of any such net direct written premium between the association and one of its members the written decision of the commissioner shall be final. The premium charged to any member insurer for any of the three categories or a category established by the association shall not be more than 1 percent of the net direct premium written in that category in this state by such member insurer; provided that in no event shall the total premium charged a member insurer in one calendar year exceed 1 percent of the net direct premium written by the member insurer in one calendar year.

The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amount of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. However, during the period of deferment, no dividends shall be paid to shareholders or policyholders by the company whose assessment was deferred. Deferred assessments shall be paid when the payment will not reduce capital or surplus below required minimums. These payments shall be refunded to those companies receiving larger assessments by virtue of the deferment, or, in the discretion of any such company, credited against future assessments. Such premium charges shall be recognized in the ratemaking procedures for insurance rates in the same manner that losses are recognized or as otherwise provided in this article. After all covered claims of the insolvent insurer and expenses of administration have been paid, any unused premiums and any reimbursements or claims dividends from the liquidator remaining in any category either shall be refunded by the association to the member insurers who paid the premiums for such category in proportion to their premiums paid or retained by the association and applied to reduce future premium charges in the appropriate category. However, an insurer which ceases to be a member of the association shall have no right to a refund of any premium previously remitted to the association. The commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer which fails to pay a premium when due and after demand has been made.

Interest at a rate equal to the current federal reserve discount rate plus 2½ percent per annum shall be added to the premium of any member insurer which fails to submit the premium requested by the association within 30 days after such mailing request. However, in no event shall the interest rate exceed the legal maximum.

SEC. 2. Section 1063.14 of the Insurance Code is amended to read:

1063.14. (a) The plan of operation adopted pursuant to subdivision (c) of Section 1063 shall contain provisions whereby each member insurer is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission.

(b) The amount of any surcharge shall be separately stated on either a billing or policy declaration sent to an insured, except for billings or declarations covering policies of insurance subject to the provisions of Section 660 or 675 which need not separately state a surcharge. The association shall determine the rate of the surcharge

and the collection period for each category and these shall be mandatory for all member insurers of the association who write business in those categories. Member insurers who collect surcharges in excess of premiums paid pursuant to Section 1063.5 for an insolvent insurer shall remit the excess to the association as an additional premium within 120 days after the end of the collection period determined by the association. The excess shall be applied to reduce future premium charges for that insurer in the appropriate category.

(c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to recoup the amount of surcharge otherwise collectible.

SEC. 3. The provisions of Section 1063.14 of the Insurance Code and the amendments made to Section 1063.1 of the Insurance Code by Chapter 1154 of the Statutes of 1981 shall only be effective with respect to insolvencies occurring on or after January 1, 1982.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because the provisions of Chapter 1154 of the Statutes of 1981 increase the potential liability of the Guarantee Fund and make substantial changes in its operations, it is necessary that this bill take effect as soon as possible so that the increased liabilities of the Guarantee Fund with respect to insolvencies occurring on or after January 1, 1982, shall be subject to the provisions of this act.

CHAPTER 623

An act to amend Section 53205.3 of the Government Code, relating to public education agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982 Filed with Secretary of State August 27, 1982]

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

SECTION 1. Section 53205.3 of the Government Code is amended to read:

53205.3. School districts and community college districts may join with other school districts or community college districts, or any combination of those districts, in providing for the payment of health and welfare benefits by entering into a pooling arrangement under a joint exercise of powers agreement or on a self-insured or

self-funded basis or partly by means of self-insurance or self-funding and partly by means of insurance or service agreements as herein described. Any such arrangement, otherwise valid under this section, as amended by the Statutes of 1982, which was entered into prior to, and is in effect on the effective date of such amendments to this section, is hereby validated and confirmed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that school districts and community college districts which include more than one county within their boundaries and thus come under the jurisdiction of more than one county superintendent of schools may join with other districts to provide for health and welfare benefits as soon as possible, and so permit the more efficient and orderly operation of health and welfare benefit systems at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 624

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, and 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.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 11550 of the Government Code is amended to read:

11550. An annual salary of thirty-five thousand dollars ($35,000) shall be paid to each of the following:

(a) Director of Finance.
(b) Secretary of Business and Transportation Agency.
(c) Secretary of Resources Agency.
(d) Secretary of Health and Welfare Agency.
(e) Secretary of State and Consumer Services Agency.
(f) Director of Industrial Relations.
(g) Commissioner, California Highway Patrol.
(h) Secretary of Youth and Adult Correctional Agency.

SEC. 2. Section 12800 of the Government Code is amended to read:

12800. There are in the state government the following agencies: State and Consumer Services; Business, Transportation and Housing; Health and Welfare; Resources; and Youth and Adult Correctional.

Whenever the term "Agriculture and Services Agency" appears in any law, it means the "State and Consumer Services Agency," and whenever the term "Secretary of Agriculture and Services Agency" appears in any law, it means the "Secretary of State and Consumer Services Agency."

Whenever the term "Business and Transportation Agency" appears in any law, it means the "Business, Transportation and Housing Agency," and whenever the term "Secretary of the Business and Transportation Agency" appears in any law, it means the "Secretary of the Business, Transportation and Housing Agency."

SEC. 3. Section 12803 of the Government Code is amended to read:

12803. The Health and Welfare Agency consists of the following departments: Health Services; Mental Health; Developmental Services; Social Services; Alcohol and Drug Abuse; Aging; Employment Development; and Rehabilitation.

The agency also includes the Office of Statewide Health Planning and Development and the State Council on Developmental Disabilities.

SEC. 4. Section 12804 of the Government Code is amended to read:

12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.

The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Veterans Affairs; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Fire Marshal; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the California Museum of Science and Industry; and the State Building and Standards Commission.

SEC. 5. Section 12806 of the Government Code is amended to read:

12806. (a) The Health and Welfare Agency succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Human Relations Agency in respect to the various agencies in the Human Relations Agency listed in Section 12803 on the effective date of the 1972 amendment of this section, with the exception of the Office of Atomic Energy Development and Radiation Protection, which, by Section 12803, is renamed the Office of Nuclear Energy and transferred to the Resources Agency and the California Commission on Aging (formerly the Citizens' Advisory Commission on Aging).

The Secretary of the Health and Welfare Agency succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Administrator of the Human Relations Agency in respect to the various agencies in the Human Relations

Agency listed in Section 12803 on the effective date of the 1972 amendment of this section, with the exceptions of the Office of Atomic Energy Development and Radiation Protection and the California Commission on Aging.

(b) Any reference in any law to the Human Relations Agency or to the administrator of that agency with respect to any agency listed in Section 12803 on the effective date of the 1972 amendment of this section, except the Office of the Atomic Energy Development and Radiation Protection or the California Commission on Aging, shall be considered a reference to the Health and Welfare Agency or to the Secretary of the Health and Welfare Agency, as the case may be, unless the context otherwise requires.

SEC. 6. Section 12808 of the Government Code is amended to read:

12808. The Health and Welfare Agency and the Resources Agency may use the unexpended balances of funds available for use by the Human Relations Agency in connection with the functions of the Human Relations Agency that are transferred to or vested in the Health and Welfare Agency or the Resources Agency by Section 12803, 12806, or 12807, as the case may be. Such funds shall be used by the Health and Welfare Agency and the Resources Agency only for the purposes for which they were originally appropriated or otherwise made available to the Human Relations Agency.

SEC. 7. Section 12809 of the Government Code is amended to read:

12809. All officers and employees of the Human Relations Agency who, on the effective date of the 1972 amendment of this section, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function transferred to or vested in the Health and Welfare Agency or the Resources Agency by Section 12803, 12806, or 12807 shall be transferred to the Health and Welfare Agency or the Resources Agency, as the case may be. The status, positions, and rights of such persons shall not be affected by the transfer, and shall be retained by them as officers and employees of the Health and Welfare Agency or the Resources Agency pursuant to the State Civil Service Act, except as to positions exempt from civil service in the Human Relations Agency.

SEC. 8. Section 12810 of the Government Code is amended to read:

12810. The Health and Welfare Agency and the Resources Agency shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal, held for the benefit or use of the Human Relations Agency in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the Human Relations Agency that are transferred to or vested in the Health and Welfare Agency or the Resources Agency by Section 12803, 12806, or 12807.

SEC. 9. Section 12811 is added to the Government Code, to read:

12811. The Youth and Adult Correctional Agency consists of 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.

SEC. 10. Section 12811.1 is added to the Government Code, to read:

12811.1. The Governor, upon recommendation of the Secretary of the Youth and Adult Correctional Agency, may appoint not to exceed two deputies for the secretary.

SEC. 11. Section 12811.2 is added to the Government Code, to read:

12811.2. Any reference in any law in effect on June 30, 1979, to the Health and Welfare Agency or to the secretary of that agency, with respect to the Department of Corrections or the Department of the Youth Authority shall be considered a reference to the Youth and Adult Correctional Agency or to the Secretary of the Youth and Adult Correctional Agency, as the case may be, unless the context otherwise requires.

SEC. 12. Section 12855 of the Government Code is amended to read:

12855. For the purpose of this chapter, "agency" means the State and Consumer Services Agency, the Health and Welfare Agency, or the Resources Agency, or the Youth and Adult Correctional Agency, and "secretary" means the secretary of any such agency. The general powers of the Business and Transportation Agency and its secretary are those specified in Part 4.5 (commencing with Section 13975) of Division 3 of Title 2 of this code.

SEC. 13. Section 3510 of the Penal Code is amended to read:

3510. There is in the Youth and Adult Correctional Agency, the Institutional Review Board which shall be composed of at least seven members representing persons of diverse racial and cultural backgrounds.

SEC. 14. Section 5000 of the Penal Code is amended to read:

5000. There is in the Youth and Adult Correctional Agency the Department of Corrections.

SEC. 15. Section 6024 of the Penal Code is amended to read:

6024. There is in the Youth and Adult Correctional Agency a Board of Corrections.

SEC. 16. Section 6025 of the Penal Code is amended to read:

6025. (a) The Board of Corrections shall be composed of 11 members, one of whom shall be the Secretary of the Youth and Adult Correctional Agency who shall be designated as the chairman, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and eight of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Youth and Adult Correctional Agency, and with the advice and consent of the Senate. There shall be one representative from each of the following categories:

(1) A member of a statewide parole board of this state.
(2) A county sheriff.
(3) A county supervisor or county administrative officer.
(4) A chief probation officer.
(5) An employee of a state correctional facility who is involved in either custody or care and treatment.
(6) An administrator of a local community-based correctional program.
(7) Two public members.

(b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each such member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. The terms of the two persons last appointed as qualified persons, by the Governor with the advice and consent of the Senate, under the provisions of this section as it read prior to January 1, 1977, shall expire on that date.

(c) The board shall select a vice chairman from among its members. Six members of the board shall constitute a quorum.

(d) When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

SEC. 17. Section 6028.2 of the Penal Code is amended to read:

6028.2. The Secretary of the Youth and Adult Correctional Agency may furnish for the use of any such commission such facilities, supplies, and personnel as may be available therefor.

SEC. 18. Section 1710 of the Welfare and Institutions Code is amended to read:

1710. There is in the Youth and Adult Correctional Agency a Department of the Youth Authority.

SEC. 19. Section 1716 of the Welfare and Institutions Code is amended to read:

1716. (a) There is in the Youth and Adult Correctional Agency a Youthful Offender Parole Board, which shall be composed of seven members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his or her successor, and who shall devote their entire time to its work.

(b) The individuals who were members of the Youth Authority Board immediately prior to the effective date of this section, other

than the individual who was Director of the Department of the Youth Authority and Chairman of the Youth Authority Board, shall continue in their respective terms of office as members of the Youthful Offender Parole Board. The term of the member appointed to the term commencing March 15, 1976 shall expire March 15, 1980. The terms of the two members appointed to the terms commencing March 15, 1977 shall expire March 15, 1981. The terms of the two members appointed to the terms commencing March 15, 1978 shall expire March 15, 1982. The terms of the two members appointed to the terms commencing March 15, 1979 shall expire March 15, 1983. The members shall be eligible for reappointment and shall hold office until the appointment and qualification of their successors, with the term of each new appointee to commence on the expiration date of the term of his or her predecessor.

(c) All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term. Each member shall hold office until the appointment and qualification of his or her successor.

(d) If the Senate, in lieu of failing to confirm, finds that it cannot consider all or any of the appointments to the Youthful Offender Parole Board adequately because the amount of legislative business and the probable duration of the session does not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular or extraordinary, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

SEC. 20. Section 3150 of the Welfare and Institutions Code is amended to read:

3150. (a) There is in the Youth and Adult Correctional Agency a Narcotic Addict Evaluation Authority, hereafter referred to in this article as the "authority." The authority shall be composed of seven members, each of whom shall be appointed by the Governor, for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment. The chairman of the authority shall be designated by the Governor from time to time. The terms of the members first appointed to the authority shall expire as follows: one on January 15, 1965, one on January 15, 1966, one on January 15, 1967, and one on January 15, 1968. The terms of the three members first appointed to the authority pursuant to amendments to this section enacted at the 1979–80 Regular Session of the Legislature shall expire as follows: one on January 15, 1983, one on January 15, 1984, and one on January 15, 1985. Their successors shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the

unexpired term. Insofar as practicable, persons appointed to the authority shall have a broad background in law, sociology, law enforcement, medicine, or education, and shall have a deep interest in the rehabilitation of narcotic addicts.

(b) Each member of the authority shall devote such time to the duties of his or her office as required for performance of his or her duties and shall be entitled to an annual salary of nine thousand five hundred dollars ($9,500) for attendance upon business of the authority. The chairman shall be entitled to an annual salary of ten thousand dollars ($10,000). In addition, each member shall be allowed actual expenses incurred in the discharge of his duties, including travel expenses.

(c) The authority shall maintain its headquarters at the California Rehabilitation Center and shall be provided with necessary office space, equipment and services from funds appropriated to the California Rehabilitation Center.

(d) The authority shall meet at the center or its branches at such times as may be necessary for a full and complete study of the cases of all patients who are certified by the Director of Corrections to the authority as having recovered from addiction or imminent danger of addiction to such an extent that release in an outpatient status is warranted. Other times and places of meetings may also be fixed by the authority. Where the authority performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least three members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present. The authority may meet and transact business in panels. Each authority panel shall consist of at least two members of the authority. Two members of the authority shall constitute a quorum for the transaction of business of a panel. No action shall be valid unless concurred in by a majority of the members present.

(e) Members of other similar boards may be assigned to hear cases and make recommendations to the authority. Such recommendations shall be made in accordance with policies established by a majority of the total membership of the authority.

SEC. 21. Section 3300 of the Welfare and Institutions Code is amended to read:

3300. There is hereby established an institution and branches, under the jurisdiction of the Department of Corrections, to be known as the California Rehabilitation Center. Branches may be established in existing institutions of the Department of Corrections or of the Department of the Youth Authority, in halfway houses as described in Section 3153, in such other facilities as may be made available on the grounds of other state institutions, and in city and county correctional facilities where treatment facilities are available. Branches shall not be established on the grounds of such other institutions in any manner which will result in the placement of patients of such institutions into inferior facilities. Branches placed in a facility of the State Department of Mental Health shall have

prior approval of the Director of Mental Health, and branches placed in a facility of the State Department of Developmental Services shall have the prior approval of the Director of Developmental Services. The branches in the Department of the Youth Authority shall be established on order of the Secretary of the Youth and Adult Correctional Agency and shall be subject to the administrative direction of the Director of the Youth Authority. Branches placed in city or county facilities shall have prior approval of the legislative body of the city or county.

Persons confined pursuant to this section in branches established in city and county correctional facilities shall be housed separately from the prisoners therein, and shall be entitled to receive treatment substantially equal to that which would be afforded such persons if confined in the main institution of the California Rehabilitation Center.

CHAPTER 625

An act to amend Section 1538.5 of the Penal Code, relating to suppression of evidence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982 Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1538.5 of the Penal Code is amended to read:

1538.5. (a) A defendant may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure on either of the following grounds:

(1) The search or seizure without a warrant was unreasonable.

(2) The search or seizure with a warrant was unreasonable because (i) the warrant is insufficient on its face; (ii) the property or evidence obtained is not that described in the warrant; (iii) there was not probable cause for the issuance of the warrant; (iv) the method of execution of the warrant violated federal or state constitutional standards; (v) there was any other violation of federal or state constitutional standards.

(b) When consistent with the procedures set forth in this section and subject to the provisions of Sections 170 through 170.6 of the Code of Civil Procedure, the motion should first be heard by the magistrate who issued the search warrant if there is a warrant.

(c) Whenever a search or seizure motion is made in the municipal, justice or superior court as provided in this section, the judge or magistrate shall receive evidence on any issue of fact necessary to determine the motion.

(d) If a search or seizure motion is granted pursuant to the proceedings authorized by this section, the property or evidence shall not be admissible against the movent at any trial or other hearing unless further proceedings authorized by this section, Section 871.5, Section 1238, or Section 1466 are utilized by the people.

(e) If a search or seizure motion is granted at a trial, the property shall be returned upon order of the court unless it is otherwise subject to lawful detention. If the motion is granted at a special hearing, the property shall be returned upon order of the court only if, after the conclusion of any further proceedings authorized by this section or Section 1238 or Section 1466, the property is not subject to lawful detention or if the time for initiating such proceedings has expired, whichever occurs last. If the motion is granted at a preliminary hearing, the property shall be returned upon order of court after 10 days unless the property is otherwise subject to lawful detention or unless, within that time, further proceedings authorized by this section, Section 871.5, or Section 1238 are utilized; if they are utilized, the property shall be returned only if, after the conclusion of such proceedings, the property is no longer subject to lawful detention.

(f) If the property or evidence relates to a felony offense initiated by a complaint, the motion shall be made in the superior court only upon filing of an information, except that the defendant may make the motion at the preliminary hearing in the municipal or justice court but the motion in the municipal or justice court shall be restricted to evidence sought to be introduced by the people at the preliminary hearing.

(g) If the property or evidence relates to a misdemeanor complaint, the motion shall be made in the municipal or justice court before trial and heard prior to trial at a special hearing relating to the validity of the search or seizure. If the property or evidence relates to a misdemeanor filed together with a felony, the procedure provided for a felony in this section and Sections 1238 and 1539 shall be applicable.

(h) If, prior to the trial of a felony or misdemeanor, opportunity for this motion did not exist or the defendant was not aware of the grounds for the motion, the defendant shall have the right to make this motion during the course of trial in the municipal, justice or superior court.

(i) If the property or evidence obtained relates to a felony offense initiated by complaint and the defendant was held to answer at the preliminary hearing, or if the property or evidence relates to a felony offense initiated by indictment, the defendant shall have the right to renew or make the motion in the superior court at a special hearing relating to the validity of the search or seizure which shall be heard prior to trial and at least 10 days after notice to the people unless the people are willing to waive a portion of this time. The defendant shall have the right to litigate the validity of a search or seizure de novo on the basis of the evidence presented at a special hearing. After the

special hearing is held in the superior court, any review thereafter desired by the defendant prior to trial shall be by means of an extraordinary writ of mandate or prohibition filed within 30 days after the denial of his motion at the special hearing.

(j) If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return of the property or suppression of the evidence at the preliminary hearing is granted, and if the defendant is not held to answer at the preliminary hearing, the people may file a new complaint or seek an indictment after the preliminary hearing, and the ruling at the prior hearing shall not be binding in any subsequent proceeding. In the alternative, the people may move to reinstate the complaint, or those parts of the complaint for which the defendant was not held to answer, pursuant to Section 871.5. If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return or suppression of the property or evidence at the preliminary hearing is granted, and if the defendant is held to answer at the preliminary hearing, the ruling at the preliminary hearing shall be binding upon the people unless, upon notice to the defendant and the court in which the preliminary hearing was held and upon the filing of an information, the people within 15 days after the preliminary hearing request in the superior court a special hearing, in which case the validity of the search or seizure shall be relitigated de novo on the basis of the evidence presented at the special hearing, and the defendant shall be entitled, as a matter of right, to a continuance of the special hearing for a period of time up to 30 days. If defendant's motion is granted at a special hearing in the superior court, the people, if they have additional evidence relating to the motion and not presented at the special hearing, shall have the right to show good cause at the trial why such evidence was not presented at the special hearing and why the prior ruling at the special hearing should not be binding, or the people may seek appellate review as provided in subdivision (o), unless the court prior to the time such review is sought has dismissed the case pursuant to Section 1385. If the property or evidence seized relates solely to a misdemeanor complaint, and the defendant made a motion for the return of property or the suppression of evidence in the municipal court or justice court prior to trial, both the people and defendant shall have the right to appeal any decision of that court relating to that motion to the superior court of the county in which such inferior court is located, in accordance with the California Rules of Court provisions governing appeals from municipal and justice courts in criminal cases. If the people prosecute review by appeal or writ to decision, or any review thereof, in a felony or misdemeanor case, it shall be binding upon them.

(k) If the defendant's motion to return property or suppress evidence is granted and the case is dismissed pursuant to Section 1385, or the people appeal in a misdemeanor case pursuant to subdivision (j), the defendant shall be released pursuant to Section

1318 if he is in custody and not returned to custody unless the proceedings are resumed in the trial court and he is lawfully ordered by the court to be returned to custody.

If the defendant's motion to return property or suppress evidence is granted and the people file a petition for writ of mandate or prohibition pursuant to subdivision (o) or a notice of intention to file such a petition, the defendant shall be released pursuant to Section 1318 unless (1) he is charged with a capital offense in a case where the proof is evident and the presumption great, or (2) he is charged with a noncapital offense defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 and the court orders that the defendant be discharged from actual custody upon bail.

(*l*) If the defendant's motion to return property or suppress evidence is granted, the trial of a criminal case shall be stayed to a specified date pending the termination in the appellate courts of this state of the proceedings provided for in this section, Section 871.5, Section 1238, or Section 1466 and, except upon stipulation of the parties, pending the time for the initiation of such proceedings. Upon the termination of such proceedings, the defendant shall be brought to trial as provided by Section 1382, and subject to the provisions of Section 1382, whenever the people have sought and been denied appellate review pursuant to subdivision (o), the defendant shall be entitled to have the action dismissed if he is not brought to trial within 30 days of the date of the order which is the last denial of the petition. Nothing contained in this subdivision shall prohibit a court, at the same time as it rules upon the search and seizure motion, from dismissing a case pursuant to Section 1385 when such dismissal is upon the court's own motion and is based upon an order at the special hearing granting defendant's motion to return property or suppress evidence. In a misdemeanor case, the defendant shall be entitled to a continuance of up to 30 days if he intends to file a motion to return property or suppress evidence and needs this time to prepare for the special hearing on the motion. In case of an appeal by the defendant in a misdemeanor case from the denial of such motion, he shall be entitled to bail as a matter of right, and, in the discretion of the trial or appellate court, may be released on his own recognizance pursuant to Section 1318.4.

(m) The proceedings provided for in this section, Section 995, Section 1238, and Section 1466 shall constitute the sole and exclusive remedies prior to conviction to test the unreasonableness of a search or seizure where the person making the motion for the return of property or the suppression of evidence is a defendant in a criminal case and the property or thing has been offered or will be offered as evidence against him. A defendant may seek further review of the validity of a search or seizure on appeal from a conviction in a criminal case notwithstanding the fact that such judgment of conviction is predicated upon a plea of guilty. Such review on appeal may be obtained by the defendant providing that at some stage of the proceedings prior to conviction he has moved for the return of

property or the suppression of the evidence.

(n) Nothing contained in this section shall prohibit a person from making a motion, otherwise permitted by law, to return property, brought on the ground that the property obtained is protected by the free speech and press provisions of the Federal and State Constitutions. Nothing in this section shall be construed as altering (i) the law of standing to raise the issue of an unreasonable search or seizure; (ii) the law relating to the status of the person conducting the search or seizure; (iii) the law relating to the burden of proof regarding the search or seizure; (iv) the law relating to the reasonableness of a search or seizure regardless of any warrant which may have been utilized; or (v) the procedure and law relating to motions made pursuant to Section 871.5 or 995 or the procedures which may be initiated after the granting or denial of such a motion.

(o) Within 30 days after a defendant's motion is granted at a special hearing in the superior court, the people may file a petition for writ of mandate or prohibition, seeking appellate review of the ruling regarding the search or seizure motion. If the trial of a criminal case is set for a date which is less than 30 days from the granting of a defendant's motion at a special hearing in the superior court, the people, if they have not filed such a petition and wish to preserve their right to file such a petition, shall file in the superior court on or before the trial date or within 10 days after the special hearing, whichever occurs last, a notice of intention to file such a petition and shall serve a copy of the notice upon the defendant.

SEC. 2. The amendment of Section 1538.5 of the Penal Code by this act does not create any new grounds for exclusion of evidence that did not exist prior to this act. The Legislature intends that the changes made by this act are procedural only.

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

In order that procedures relating to motions to suppress evidence may be made more uniform and economical as soon as possible, thus contributing to the public safety and improving the criminal justice system, it is necessary that this act take effect immediately.

CHAPTER 626

An act to amend Section 2943 of the Civil Code, relating to secured obligations.

[Approved by Governor August 27, 1982 Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 2943 of the Civil Code is amended to read:

2943. As used in this section:

(a) "Beneficiary" means a mortgagee or beneficiary of a deed of trust, or his or her assignees.

(b) "Entitled person" means the trustor or mortgagor, or his or her successor in interest, in the mortgaged or trust property, or any part thereof, any beneficiary under a subordinate deed of trust, any other person having a subordinate lien or encumbrance of record thereon, the escrow holder licensed as an agent pursuant to Division 6 (commencing with Section 17000) of the Financial Code, or the party exempt by virtue of Section 17006 of the Financial Code who is acting as the escrow holder.

A beneficiary, or the beneficiary's authorized agent, shall, on the written demand of an entitled person, or the entitled person's authorized agent, made at any time before, or within two months after, the recording of a notice of default under a mortgage or deed of trust, if the power of sale therein is to be exercised, or otherwise made more than 30 days prior to entry of the decree of foreclosure, prepare and deliver to the person demanding it a written statement showing:

(1) The amount of the unpaid balance of the obligation secured by the mortgage or deed of trust and the interest rate, together with the total amounts, if any, of all overdue installments of either principal or interest, or both.

(2) The amounts of periodic payments, if any.

(3) The date on which the obligation is due in whole or in part.

(4) The date to which real estate taxes and special assessments have been paid to the extent such information is known to the lender.

(5) The amount of hazard insurance in effect and the term and premium of such insurance to the extent such information is known to the lender.

(6) The amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums.

(7) The nature and, if known, the amount of any additional charges, costs, or expenses paid or incurred by the beneficiary which have become a lien on the real property involved.

(8) A certified true, correct, and complete copy of the note and trust deed or mortgage and any subsequent modifications thereto.

The beneficiary may, before delivering a statement, require reasonable proof that the person making the demand is, in fact, an entitled person or an authorized agent of an entitled person, in which event the beneficiary shall not be subject to the penalties of this section until 21 days after receipt of the proof herein provided for. A statement in writing signed by the entitled person appointing an authorized agent when delivered personally to the beneficiary or

delivered by registered return receipt mail shall constitute reasonable proof as to the identity of an agent. Similar delivery of a policy of title insurance, preliminary report issued by a title company, original or photographic copy of a grant deed or certified copy of letters testamentary, guardianship, or conservatorship shall constitute reasonable proof as to the identity of a successor in interest, provided the person demanding a statement is named as successor in interest in the document.

Delivery of the statement by the beneficiary, as herein referred to, shall mean depositing or causing to be deposited in the United States mail an envelope, with postage prepaid, containing a copy of the statement, addressed to the person whose name and address is set forth in the demand therefor.

If a beneficiary for a period of 21 days after receipt of such written demand willfully fails to prepare and deliver such statement, the beneficiary is liable to the entitled person for all damages which the entitled person may sustain by reason of such refusal and, whether or not actual damages are sustained, the beneficiary shall forfeit to the entitled person the sum of one hundred dollars ($100). Each such failure to prepare and deliver such a statement, occurring at a time when, pursuant to this section, the beneficiary is required to prepare and deliver the statement, creates a separate cause of action, but a judgment awarding an entitled person such forfeiture, or damages and forfeiture, for any such failure to prepare and deliver a statement bars recovery of such damages and forfeiture for any other failure to prepare and deliver a statement, with respect to the same obligation, in compliance with a demand therefor made within six months before or after the demand as to which the award was made.

If the beneficiary has more than one branch, office, or other place of business, then the demand shall be made to the branch or office at which the payments of the obligation are made, and the statement, unless it specifies otherwise, shall be deemed to apply only to the unpaid balance owing to or payable at the branch or office secured by the mortgage or deed of trust.

The beneficiary may make a charge not to exceed fifteen dollars ($15) for furnishing the required statement, except that no charge shall be made for the statement unless such charge has been specifically provided for in the mortgage or deed of trust, and that this requirement for provision for such charge in the instrument shall not apply to mortgages or deeds of trust insured by the Federal Housing Administrator or guaranteed by the Administrator of Veterans Affairs.

This section applies only to mortgages and deeds of trust executed on or after January 1, 1964.

CHAPTER 627

An act to add Section 1857.7 to the Insurance Code, relating to insurance.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1857.7 is added to the Insurance Code, to read:

1857.7. (a) Any insurer issuing a policy of products liability insurance in this state shall transmit the following information, based on its nationwide products liability insurance writings, to the department each year in the annual report of the insurer:

(1) Premiums written.

(2) Premiums earned.

(3) Unearned premiums.

(4) The dollar amount of claims paid.

(5) The number of outstanding claims.

(6) Net loss reserves for outstanding claims excluding claims incurred but not reported.

(7) Net loss reserves for claims incurred but not reported.

(8) Losses incurred as a percentage of premiums earned.

(9) Net investment gain or loss and other income or gain or loss allocated to products liability lines.

(10) Net income before federal and foreign income taxes.

(11) Expenses incurred including loss adjustment expense, commission and brokerage expense, other acquisition expense and general expense.

(b) The reports provided pursuant to subdivision (a) shall be available for public inspection and shall be retained on file by the department for five years.

(c) The reports required by subdivision (a) shall only contain information for the year for which the reports are being filed.

(d) Any information provided by any insurer to the department pertaining to a specific claim or a products liability insurance policy shall be classified as confidential and shall not be revealed by the department.

CHAPTER 628

An act to amend Section 4532 of the Penal Code, relating to escaped prisoners.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Work Furlough Rehabilitation Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018.6, and who thereafter escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for not exceeding one year and one day to be served consecutively, regardless of any prior convictions, or in the county jail not exceeding one year; provided, however, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year; provided, that when said second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from said jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his regular educational program or authorized to secure employment or education pursuant to the Work Furlough Rehabilitation Law (Section 1208) or authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018.6, to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this subdivision.

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

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, or from such confinement pursuant to Section 4011.9, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year; provided, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year; provided that when such second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from such jail.

(c) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building or while being transported between the court building and the jail facility. In any case in which a person is convicted, of such an offense designated as a misdemeanor, he or she shall be confined in the county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation. For the purposes of this subdivision, "main jail facility" is the facility used for the detention of persons pending arraignment, after arraignment, during trial and upon sentence or commitment. Such facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision "secure" means that the facility contains an outer perimeter characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely supervised gate or doorway.

If the court grants probation under this subdivision, it shall specify the reason or reasons for such order on the court record.

Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 629

An act to add Section 53961 to the Government Code, relating to cemetery districts.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 53961 is added to the Government Code, to read:

53961. Notwithstanding Section 53952, the governing board of a public cemetery district organized pursuant to the public cemetery district laws in Part 4 (commencing with Section 8890) of Division 8 of the Health and Safety Code, may by resolution provide for the establishment of a revolving fund in an amount not to exceed 110 percent of one-twelfth of the district's adopted budget for that fiscal year. This fund may be used to pay any authorized expenditures of the district.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 630

An act to add Chapter 5 (commencing with Section 13400) to Part 3 of Division 3 of Title 2 of the Government Code, relating to state government.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Chapter 5 (commencing with Section 13400) is added to Part 3 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5. THE FINANCIAL INTEGRITY AND STATE MANAGER'S ACCOUNTABILITY ACT OF 1983

13400. This act shall be known and may be cited as the Financial Integrity and State Manager's Accountability Act of 1983.

13401. (a) The Legislature hereby finds that:

(1) Fraud and errors in state programs are more likely to occur from a lack of effective systems of internal accounting and administrative control in the state agencies.

(2) Effective systems of internal accounting and administrative control provide the basic foundation upon which a structure of public accountability must be built.

(3) Effective systems of internal accounting and administrative control are necessary to assure that state assets and funds are adequately safeguarded, as well as to produce reliable financial information for the agency.

(4) Systems of internal accounting and administrative control are necessarily dynamic and must be continuously evaluated and, where necessary, improved.

(5) Reports regarding the adequacy of the systems of internal accounting and administrative control of each state agency are necessary to enable the executive branch, the Legislature, and the public to evaluate the agency's performance of its public responsibilities and accountability.

(b) The Legislature declares it to be the policy of the State of California that:

(1) Each state agency must maintain effective systems of internal accounting and administrative control as an integral part of its management practices.

(2) The systems of internal accounting and administrative control of each state agency shall be evaluated on an ongoing basis and, when detected, weaknesses must be promptly corrected.

(3) All levels of management of the state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds.

13402. State agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting and administrative control within their agencies. This responsibility includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions.

13403. (a) Internal accounting and administrative controls are the methods through which reasonable assurances can be given that measures adopted by state agency heads to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed. The elements of a satisfactory system of

internal accounting and administrative control, shall include, but are not limited to, the following:

(1) A plan of organization that provides segregation of duties appropriate for proper safeguarding of state agency assets.

(2) A plan that limits access to state agency assets to authorized personnel who require these assets in the performance of their assigned duties.

(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

(4) An established system of practices to be followed in performance of duties and functions in each of the state agencies.

(5) Personnel of a quality commensurate with their responsibilities.

(6) An effective system of internal review.

(b) State agency heads shall follow these standards of internal accounting and administrative control in carrying out the requirements of Section 13402.

13404. As used in this chapter:

(a) "Governor" means the Governor of California.

(b) "Controller" means the Controller of California.

(c) "Director" means the Director of Finance.

13405. (a) To ensure that the requirements of this section are fully complied with, the head of each agency which the director determines is covered by this section shall prepare and submit a report on the adequacy of the agency's systems of internal accounting and administrative control by December 31, 1983, and by December 31 following the end of each odd-numbered fiscal year thereafter.

(b) The report, including the state agency's response to report recommendations, shall be signed by the head of the agency and addressed to the agency secretary or the director of finance for agencies without an agency secretary. Copies of the reports shall be forwarded to the Legislature, the Auditor General, the Governor, and the Director of Finance. Copies of these reports shall also be forwarded to the State Library where they shall be available for public inspection.

(c) By January 1, 1983, the director, in consultation with the Auditor General and the Controller, shall establish a system of reporting and a general framework to guide the agencies in performing evaluations on their systems of internal accounting and administrative control. The director, in consultation with the Auditor General and the Controller, may modify the format for the report or the framework for conducting the evaluations from time to time as deemed necessary.

(d) Any material inadequacy or material weakness in an agency's systems of internal accounting and administrative control which prevents the head of the agency from stating that the agency's systems of internal accounting and administrative control provided

reasonable assurances that each of the objectives specified above was achieved, shall be identified and the plans and schedule for correcting any such inadequacy described in detail.

13406. (a) The head of the internal audit staff of a state agency or a division, as specified by the director, or, in the event there is no internal audit function, a professional accountant, if available on the staff, designated as the internal control person by the head of the state agency or a division, shall receive and investigate any allegation that an employee of the agency provided false or misleading information in connection with the evaluation of the agency's systems of internal accounting and administrative control or in connection with the preparation of the annual report on the systems of internal accounting and administrative control.

(b) If, in connection with any investigation under subdivision (a), the head of the internal audit staff or the designated internal control person determines that there is reasonable cause to believe that false or misleading information was provided, he or she shall report in writing that determination to the head of the agency or the division.

(c) The head of the agency or division shall review any matter referred to him under subdivision (b), shall take such disciplinary or corrective action as he deems necessary, and shall forward a copy of the report, indicating therein the action taken, to the director within 90 days of the date of the report.

13407. Because sound internal controls and the monitoring of those internal controls significantly inhibits waste of resources and thereby creates savings, the director and agencies and divisions shall carry out the provisions of this chapter by using existing resources.

CHAPTER 631

An act to amend Section 1203.07 of the Penal Code, relating to drugs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1203.07 of the Penal Code is amended to read:

1203.07. (a) Notwithstanding the provisions of Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale one-half ounce or more of a substance containing heroin.

(2) Any person who is convicted of violating Section 11352 of the

Health and Safety Code by selling or offering to sell one-half ounce or more of a substance containing heroin.

(3) Any person convicted of violating Section 11351 of the Health and Safety Code by possessing heroin for sale or convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell heroin, and who has one or more prior convictions for violating Section 11351 or Section 11352 of the Health and Safety Code.

(4) Any person who is convicted of violating Section 11378.5 of the Health and Safety Code by possessing for sale one-half ounce or more of a liquid or crystalline substance containing phencyclidine.

(5) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by selling or offering to sell phencyclidine or by manufacturing phencyclidine.

(6) Any person who is convicted of violating Section 11380.5 of the Health and Safety Code by the use of a minor as an agent or who solicits, induces, encourages, or intimidates a minor with the intent that the minor shall violate the provisions of Section 11378.5 or 11379.5 of the Health and Safety Code.

(7) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine and cyclohexanone with intent to manufacture.

(b) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to more effectively control the use of the dangerous drug phencyclidine, it is necessary that this act take effect immediately.

CHAPTER 632

An act to amend Section 12403.7 of the Penal Code, relating to tear gas.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 12403.7 of the Penal Code is amended to read:

12403.7. (a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following requirements:

(1) No person convicted of a felony or any crime involving an assault under the laws of the United States, of the State of California, or any other state, government, or country or convicted of misuse of tear gas under paragraph (8) shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons.

(3) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(4) No person who is a minor shall purchase, possess, or use tear gas or tear gas weapons.

(5) (A) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice.

(B) The department, with the cooperation of the State Department of Health Services, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used pursuant to this section.

(C) The regulations of the department shall include a requirement that every tear gas container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under the law. The contents are dangerous—use with care."

(D) The regulations of the department shall include a requirement that after January 1, 1984, every tear gas container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which discloses the date on

which the useful life of the tear gas weapon expires.

(6) (A) No person shall purchase, possess, or use any tear gas or any tear gas weapon who has not completed a course certified by the Department of Justice in the use of tear gas and tear gas weapons pursuant to which a card is issued identifying the person who has completed such a course. Such a course shall be taken under the auspices of any institution approved by the Department of Justice to offer tear gas training. Such a training institution is authorized to charge a fee covering the actual cost of such training. The requirements of this paragraph shall not apply to a person who is a retired peace officer, as peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, if the person prior to retirement had satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas and tear gas weapons.

(B) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(7) If the purchase of tear gas or any tear gas weapon is denied, the vendor denying such purchase shall inform the person in writing of the reason for such denial. The valid identification card specified in paragraph (6) shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present a valid identification card specified in paragraph (6) is a violation of Section 12420.

(8) Any person who has a valid identification card as specified in paragraph (6), who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by fine not to exceed one thousand dollars ($1,000) or by both such fine and imprisonment.

(b) Such identification card as specified in paragraph (6) of subdivision (a) shall be valid so long as the person meets the requirements in subdivision (a), and shall be nontransferable.

All forms, cards, and other documentation necessary to administer the provisions of this section shall be uniform throughout the state as prescribed by the Department of Justice.

The Department of Justice may adopt and promulgate such regulations concerning the purchase and disposal of self-defense tear gas weapons, the standards for tear gas training courses, and the approval of facilities at which such training shall occur as are necessary to insure the safe use and possession of such tear gas weapons.

(c) Any person who successfully completes training under this section for which the course and training facility must be approved by the Department of Justice is entitled to receive a certificate of

completion issued by the Department of Justice. A fee shall be charged by the Department of Justice for the certificate. The fee shall be no more than is necessary to reimburse the Department of Justice for the costs of approving the courses, the facilities, maintaining control of the quality of the courses, and issuing the certificate of completion. The Department of Justice may provide by regulation the manner in which the fee is collected and paid.

CHAPTER 633

An act to amend Section 1597.62 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1597.62 of the Health and Safety Code is amended to read:

1597.62. (a) A pilot project of registration of family day care homes for children is hereby continued. This project shall be established in three counties consisting of one urban, one suburban, and one rural county as provided in subdivision (e). Registration shall be limited to such facilities, which care for six or fewer children. The intent of this project is to determine whether a simplified registration procedure can expand and improve availability of care while substantial compliance with health and safety regulations is maintained. The project shall terminate on January 1, 1984.

(b) The department shall develop simplified forms for collecting information from prospective registrants. Such forms shall request from the registrant the following information:

(1) Name.
(2) Age and sex.
(3) Address.
(4) Telephone number.
(5) Age and number of children the registrant expects to care for.
(6) Size of home.
(7) Outdoor space available.
(8) Records maintained on children in care.
(9) Provisions for meals and snacks.
(10) Fingerprint application.
(11) Evidence of negative tuberculosis test.
(12) A statement signed under penalty of perjury, from the registrant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars ($50), or less.
(13) A statement, signed under penalty of perjury, from the

registrant that fire safety, poison control, first aid procedures, disaster and emergency plans, and swimming pool safety are appropriate and in substantial conformity with regulations adopted by the department. The department shall provide a copy of the appropriate sections of health and safety regulations, adopted by the department, to the registrant. Completion of registration, as specified in this section, shall be sufficient for the continued operation of a day care facility for children.

(c) If, after registration by the provider, it is determined that the registrant is not in substantial compliance with regulations adopted by the department for licensed family day care, the department may proceed as provided in Section 1597.61.

(d) The department shall institute a system of random visits to 10 percent of the registered homes during the pilot registration program, with appropriate reporting on the extent to which the system is working satisfactorily.

(e) The department shall develop procedures to be followed in the event of complaints about the home, including procedures for visits, procedures to obtain corrections of unsafe conditions, procedures for suspension and revocation of registrations and licenses, and procedures to invoke criminal sanctions against operators who fail to correct unsafe conditions.

(f) The department shall select the counties to be chosen for the pilot project in the following manner:

(1) It shall confirm the existence of an information and referral system in the county with the capability of providing information to parents and prospective operators about the system.

(2) It shall make certain that the counties have procedures for ensuring that current licenses can be maintained upon appropriate applicant recertification that requirements are met.

(3) It shall make certain that procedures will be established to ensure that current licenses can be maintained upon appropriate applicant recertification that requirements are met.

(4) The county shall demonstrate its willingness to operate such a program.

(g) The department shall develop, with local information and referral offices, procedures for informing parents of their selection and complaint responsibilities under registration systems.

(h) The pilot registration program shall be implemented by counties which maintain contracts with the state for family day care licensing. Those funds normally allocated to such counties for their licensing programs shall be allocated in full for registration, except as otherwise provided for in Section 8 of Chapter 1063 of the Statutes of 1979. Such funds will cover the costs of administering the pilot registration program, and the costs of public education, followup on parent complaints, random visits, and other program elements.

(i) The board of supervisors shall establish a voluntary advisory committee to advise on the development and implementation of the pilot registration program. It shall consist of three parent consumers

of family day care services, three providers of family day care who represent at least two different associations where applicable, two representatives of resource and referral agencies, and one representative of the general public.

(j) The Department of Finance shall provide an evaluation of the registration program provided by this section to determine the impact of the pilot registration program in the following areas:

(1) The extent to which such program has expanded the amount of family day care available.

(2) The extent to which such program has encouraged the registration of unlicensed care providers.

(3) The impact such program has had on state and local administrative costs.

(4) An analysis of the extent and types of complaints which occur under the registration system with a comparison of the extent and types of complaints under current licensing procedures.

(k) The evaluation required by subdivision (g) shall be submitted to the Legislature on or before March 1, 1983.

(*l*) During the existence of the pilot registration program, for the purposes of this chapter, "licensee" includes a registrant.

CHAPTER 634

An act to amend Section 33105 of, and to add Section 33204.5 to, the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 33105 of the Public Resources Code is amended to read:

33105. "Zone" means the Santa Monica Mountains Zone, which includes that part of the land area of the greater Los Angeles metropolitan region, landward of the Pacific Coast Highway (State Highway Route 1) bounded by Calleguas Creek, thence following Calleguas Creek northward to its intersection with the corporate boundary of Camarillo, thence following the southern boundary of the City of Camarillo eastward until it intersects the Ventura Freeway (State Highway Route 101), thence following the Ventura Freeway eastward to a point of intersection with the western boundary of the Malibu Creek Watershed. The northern boundary continues thence along the boundary of the Watershed to its intersection again with the Ventura Freeway on the east; thence eastward along this freeway to its intersection with the corporate boundary of the City of Los Angeles, thence continuing on a line

drawn one-quarter of a mile south of the Ventura Freeway to its intersection with Ventura Boulevard and continuing on a line one-quarter mile south from Ventura Boulevard eastward to its intersection with Sepulveda Boulevard; thence continuing eastward along Valley Vista Boulevard to its intersection with Dixie Canyon Avenue and from this point continuing eastward on a line one-quarter mile south of Ventura Boulevard to its intersection with a linear projection of Lankershim Boulevard and thence northeasterly on this projection and continuing on Lankershim Boulevard to its intersection with Cahuenga Boulevard, thence east along Cahuenga Boulevard to its intersection with a linear projection of Barham Boulevard, and hence northeasterly along such projection and continuing upon Barham Boulevard to its intersection with the Los Angeles River, and eastward along the south bank of the Los Angeles River to its intersection with the boundary of Griffith Park, including Griffith Park, and thence following a direct line drawn southwest from the southernmost boundary point of Griffith Park to the intersection of Sunset Boulevard with the corporate boundary of the City of Los Angeles near the intersection of Sunset Boulevard and Marmount Lane, thence continuing westward following the Los Angeles corporate boundary to its intersection with the boundary of the City of Beverly Hills, thence following the northern boundary of the City of Beverly Hills until it returns to Sunset Boulevard, thence following Sunset Boulevard westward to its point of intersection with the Pacific Coast Highway (State Highway Route 1).

The zone shall also include Elysian Park and El Pueblo de Los Angeles State Historic Park and, for purposes of providing a recreational trail corridor, it shall also include hiking and equestrian trail connections and accessways between Griffith Park, Elysian Park, and El Pueblo de Los Angeles State Historic Park.

SEC. 2. Section 33204.5 is added to the Public Resources Code, to read:

33204.5. (a) The conservancy shall conduct a study and implement a program to provide recreational access from downtown Los Angeles and the inner city to the zone in order to provide recreational opportunities for all income and ethnic groups wishing to enjoy the Santa Monica Mountains. In undertaking the study, the conservancy shall cooperate with the National Park Service, the El Pueblo de Los Angeles State Historic Park Advisory Committee, the Department of Parks and Recreation, and the City of Los Angeles.

(b) The executive director of the conservancy shall file by June 30, 1983, with the Secretary of State and the City Council of the City of Los Angeles a map showing a feasible recreational trail corridor between El Pueblo de Los Angeles State Historic Park and Griffith Park.

SEC. 3. It is the intent of the Legislature that the study referred to in Section 2 shall be undertaken within existing budgetary limitations, that the conservancy shall solicit the volunteer assistance of community organizations and groups, and that the conservancy

seek in-kind matching contributions from the City of Los Angeles in preparing the study.

CHAPTER 635

An act to amend Section 26708 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 26708 of the Vehicle Code is amended to read:

26708. (a) (1) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows.

(2) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied in or upon the vehicle which obstructs or reduces the driver's clear view through the windshield or side windows.

(b) This section shall not apply to:

(1) Rearview mirrors.

(2) Adjustable nontransparent sunvisors which are mounted forward of the side windows and are not attached to the glass.

(3) Signs, stickers, or other materials which are displayed in a 7-inch square in the lower corner of the windshield farthest removed from the driver, signs, stickers, or other materials which are displayed in a 7-inch square in the lower corner of the rear window farthest removed from the driver, or signs, stickers, or other materials which are displayed in a 5-inch square in the lower corner of the windshield nearest the driver.

(4) Side windows which are to the rear of the driver.

(5) Direction, destination, or termini signs upon a passenger common carrier motor vehicle, providing such signs do not interfere with the driver's clear view of approaching traffic.

(6) Rear window wiper motor.

(7) Rear trunk lid handle or hinges.

(8) The rear window or windows, when the motor vehicle is equipped with outside mirrors on both the left- and right-hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least 200 feet to the rear of the vehicle.

(9) A clear, transparent lens affixed to the side window opposite the driver on a vehicle greater than 80 inches in width and which occupies an area not exceeding 50 square inches of the lowest corner toward the rear of that window and which provides the driver with

a wide-angle view through the lens.

(c) Notwithstanding subdivision (a), transparent material may be installed, affixed, or applied to the topmost portion of the windshield if:

(1) The bottom edge of the material is at least 29 inches above the undepressed driver's seat when measured from a point 5 inches in front of the bottom of the backrest with the driver's seat in its rearmost and lowermost position with the vehicle on a level surface.

(2) The material is not red or amber in color.

(3) There is no opaque lettering on the material and any other lettering does not affect primary colors or distort vision through the windshield.

(4) The material does not reflect sunlight or headlight glare into the eyes of occupants of oncoming or following vehicles to any greater extent than the windshield without the material.

CHAPTER 636

An act to amend Section 5453 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 5453 of the Welfare and Institutions Code is amended to read:

5453. The State Director of Mental Health shall use the following as criteria in determining the eligibility of each applicant:

(a) Facilities:

(1) Settings, whether residential or day, shall be as close to a normal home environment as possible without sacrificing client safety or care.

(2) Residential treatment centers shall be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting.

(3) The individual elements of the system shall, where possible, be in separate facilities, and not part of one large facility attempting to serve an entire range of clients.

(b) Staffing patterns:

(1) Staffing patterns shall reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual and other social characteristics of the community the facility serves.

(2) The programs shall be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the clients.

(3) Programs shall use paraprofessionals and persons who have

been consumers of mental health services where appropriate.

(c) Programs:

(1) The programs shall, to the maximum extent feasible, be designed so as to reduce the dependence on psychiatric medications as a primary treatment tool. Programs in which prescriptions for medication are a component of the program shall be subject to the medications-monitoring provisions of subdivision (c) of Section 5624. Programs in which prescriptions for medication are not a component of the program shall be subject to the provisions of evaluation developed by the State Department of Mental Health pursuant to Section 5460.

(2) The programs shall have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. Where appropriate, they shall include prevocational and vocational programs.

(3) The program shall encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.

(4) Participation in any element of the system shall not preclude the involvement of clients in individual therapy. Individual therapists of clients shall, where possible, be directly involved in the development and implementation of a treatment plan, including medication and day program decisions.

(d) Coordination:

The programs shall demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health system, but should include, whenever possible, community resources utilized by the general population.

CHAPTER 637

An act to amend Section 1387 of the Penal Code, relating to dismissal of prosecutions.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1387 of the Penal Code is amended to read:

1387. An order terminating an action pursuant to this chapter, or Section 859b, 861, 871, or 995, is a bar to any other prosecution for the same offense if it is a felony or it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 861, 871, or 995, or if it is a misdemeanor not charged together with a felony, except in those

felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds that substantial new evidence has been discovered by the prosecution which would not have been known through the exercise of due diligence at or prior to the time of termination of the action or that the termination of the action was the result of the direct intimidation of a material witness, as shown by a preponderance of the evidence.

However, if the previous termination was pursuant to Section 859b, 861, 871, or 995, the subsequent order terminating an action is not a bar to prosecution if either:

(a) Good cause is shown why the preliminary examination was not held within 60 days from the date of arraignment or plea.

(b) The motion pursuant to Section 995 was granted because of (1) present insanity of the defendant or (2) a lack of counsel after the defendant elected to represent himself or herself rather than being represented by appointed counsel.

CHAPTER 638

An act to amend Section 21002 of, and to add Section 21258 to, the Public Utilities Code, relating to aviation.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 21002 of the Public Utilities Code is amended to read:

21002. The purpose of this part is to further and protect the public interest in aeronautics and aeronautical progress by the following means:

(a) Encouraging the development of private flying and the general use of air transportation.

(b) Fostering and promoting safety in aeronautics.

(c) Effecting uniformity of the laws and regulations relating to aeronautics consistent with federal aeronautics laws and regulations.

(d) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property, assist in the development of a statewide system of airports, encourage the flow of private capital into aviation facilities, and cooperate with and assist political subdivisions and others engaged in aeronautics in the development and encouragement of aeronautics.

(e) Establishing only those regulations which are essential and clearly within the scope of the authority granted by the Legislature,

in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others.

(f) Providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state.

(g) Assuring that persons residing in the vicinity of airports are protected to the greatest possible extent against intrusions by unreasonable levels of aircraft noise.

(h) Fostering and promoting the development of a stable and efficient regional air carrier system to provide access for small and rural communities to the national air transportation system consistent with federal policies favoring deregulation.

SEC. 2. Section 21258 is added to the Public Utilities Code, to read:

21258. The department shall represent the state and local agencies before the Civil Aeronautics Board and other federal agencies in all matters related to the Airline Deregulation Act of 1978 (P.L. 95-504, as amended) and the essential air service program created by that act. The department shall assist and cooperate with federal, state, and local agencies and private entities in the development of a stable and efficient regional air carrier system.

CHAPTER 639

An act to amend Section 41362 of, to amend and renumber the heading of Article 10 (commencing with Section 41551) and Article 11 (commencing with Section 41581) of Chapter 4 of Division 16 of, to add Article 4 (commencing with Section 41421) and Article 5 (commencing with Section 41441) to Chapter 4 of Division 16 of, and to repeal Article 4 (commencing with Section 41391), Article 5 (commencing with Section 41421), Article 6 (commencing with Section 41451), Article 7 (commencing with Section 41471), Article 8 (commencing with Section 41501), and Article 9 (commencing with Section 41521) of Chapter 4 of Division 16 of, the Food and Agricultural Code, relating to olives.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 41362 of the Food and Agricultural Code is amended to read:

41362. In addition to the standards and requirements which are prescribed by Section 41361, the standard of quality, condition, and fill of container and requirements for marking of canned fruits and

vegetables are those which are promulgated or to be promulgated by the Secretary of the United States Department of Agriculture.

SEC. 2. Article 4 (commencing with Section 41391) of Chapter 4 of Division 16 of the Food and Agricultural Code is repealed.

SEC. 3. Article 4 (commencing with Section 41421) is added to Chapter 4 of Division 16 of the Food and Agricultural Code, to read:

Article 4. Size Standards Generally for Canned Ripe Olives

41421. Tolerances above or below the count per pound of a designated size of olives shall be established which conform to the tolerances adopted by the United States Department of Agriculture in its United States Standards for Grades of Canned Ripe Olives.

SEC. 4. Article 5 (commencing with Section 41421) of Chapter 4 of Division 16 of the Food and Agricultural Code is repealed.

SEC. 5. Article 5 (commencing with Section 41441) is added to Chapter 4 of Division 16 of the Food and Agricultural Code, to read:

Article 5. Disposition of Ripe Olives Which Are Below Specified Sizes

41441. The following varieties of ripe olives shall not be packed, shipped, delivered for shipment, or sold within this state, as whole or pitted or broken pitted canned ripe olives, if they are below the following specified sizes:

(a) Mission and Manzanillo varieties of small size, and any mutations, sports, or other derivations of these varieties.

(b) Obliza variety of medium size, and any mutations, sports, or other derivations of this variety.

(c) Ascolano, St. Agostino, and Barouni varieties of extra large size, and any mutations, sports, or other derivations of these varieties.

(d) Sevillano variety having a count range of 75 per pound.

SEC. 6. Article 6 (commencing with Section 41451) of Chapter 4 of Division 16 of the Food and Agricultural Code is repealed.

SEC. 7. Article 7 (commencing with Section 41471) of Chapter 4 of Division 16 of the Food and Agricultural Code is repealed.

SEC. 8. Article 8 (commencing with Section 41501) of Chapter 4 of Division 16 of the Food and Agricultural Code is repealed.

SEC. 9. Article 9 (commencing with Section 41521) of Chapter 4 of Division 16 of the Food and Agricultural Code is repealed.

SEC. 10. The heading of Article 10 (commencing with Section 41551) of Chapter 4 of Division 16 of the Food and Agricultural Code is amended and renumbered to read:

Article 6. Violations

SEC. 11. The heading of Article 11 (commencing with Section 41581) of Chapter 4 of Division 16 of the Food and Agricultural Code is amended and renumbered to read:

Article 7. Abatement

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 640

An act to amend Section 4002 of the Penal Code, relating to jails.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 4002 of the Penal Code is amended to read:

4002. Persons committed on criminal process and detained for trial, persons convicted and under sentence, and persons committed upon civil process, shall not be kept or put in the same room, nor shall male and female prisoners, except husband and wife, sleep, dress or undress, bathe, or perform eliminatory functions in the same room. However, persons committed on criminal process and detained for trial may be kept or put in the same room with persons convicted and under sentence for the purpose of participating in supervised activities and for the purpose of housing, provided, that the housing occurs as a result of a classification procedure which is based upon consideration of criminal sophistication, seriousness of crime charged, presence or absence of assaultive behavior, age, and other criteria that will provide for the safety of the prisoners and staff. Nothing in this section shall be construed to impose any requirement upon a county to confine male and female prisoners in the same or an adjoining facility or impose any duty upon a county to establish or maintain programs which involve the joint participation of male and female prisoners.

CHAPTER 641

An act to amend Sections 58845, 58937, 59735, 59947, 64631, and 64696 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 58845 of the Food and Agricultural Code is amended to read:

58845. The director may authorize an advisory board to do all of the following:

(a) Enter into contracts or agreements.

(b) Employ necessary personnel, including attorneys engaged in the private practice of the law, and fix their compensation and terms of employment.

(c) Incur such expenses, to be paid from moneys which are collected as provided in Article 10 (commencing with Section 58921), as the director may deem necessary and proper to enable the advisory board properly to perform its duties as authorized by this chapter.

(d) Receive, invest, and disburse funds pursuant to the provisions of Article 10 (commencing with Section 58921).

SEC. 2. Section 58937 of the Food and Agricultural Code is amended to read:

58937. (a) Any money which is collected by the director pursuant to this chapter shall be deposited in a bank or other depository which is approved by the Director of Finance, allocated to each marketing order under which it is collected. Except as provided in Section 58941, these funds shall be disbursed by the director or the advisory board only for the necessary expenses which are incurred by the advisory board and which are approved by the director with respect to each marketing order. Allowable expenses include expenses generated by the auditing requirement imposed by subdivision (b).

Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations which are prescribed by the director. The expenditure of such funds is exempt from the provisions of Section 925.6 of the Government Code.

(b) All such expenditures by the director shall be audited at least once every two years by one of the following means:

(1) By contract with a certified public accountant.

(2) By contract with a public accountant holding a valid permit issued by the State Board of Accountancy.

(3) By contract with a public accounting firm.

(4) By agreement with the Department of Finance.

A copy of the audit shall be delivered within 30 days after the completion of the audit to the Governor, the director, and the Controller.

SEC. 3. Section 59735 of the Food and Agricultural Code is amended to read:

59735. The marketing program committee, with the approval of

the director, may do all of the following:

(a) Appoint subcommittees in any producing areas within the proration zone to facilitate the carrying out of the purposes of this chapter.

(b) Collaborate and cooperate with any agency or organization with similar purposes, whether of this state, any other state, or of the United States, in the formulation and execution of any marketing program or marketing order which has common objectives. In any proper case, the director may require such collaboration and cooperation.

(c) Cooperate with any duly constituted authority in the enforcement of other laws of this state, or of the United States, which are enacted to protect producers or the consuming public from fraud or deception.

(d) Make contracts and agreements in the furtherance of any of the powers of the marketing program committee.

(e) Receive, invest, and disburse funds, pursuant to the provisions of Article 12 (commencing with Section 59941).

SEC. 4. Section 59947 of the Food and Agricultural Code is amended to read:

59947. (a) The funds which are deposited pursuant to Section 59946 shall be disbursed by the director or the marketing program committee, pursuant to regulations prescribed by him, only for the expenditures which are incurred by the marketing program committee in carrying out the specific purposes and provisions of the marketing program, including all necessary expenses which are incurred in the formulation, administration, and enforcement of the marketing program, and expenses generated by the auditing requirement imposed by subdivision (b).

(b) All such expenditures shall be audited at least once every two years by one of the following means:

(1) By contract with a certified public accountant.

(2) By contract with a public accountant holding a valid permit issued by the State Board of Accountancy.

(3) By contract with a public accounting firm.

(4) By agreement with the Department of Finance.

A copy of the audit shall be delivered, within 30 days after the completion thereof, to the Governor, the director, and the Controller.

SEC. 5. Section 64631 of the Food and Agricultural Code is amended to read:

64631. The duties of the council shall be advisory, except as to those duties which may be delegated to it by the director. The council may, subject to the approval of the director, exercise any of the following powers which may be delegated to the council by the director:

(a) To recommend to the director administrative regulations which relate to the administration and enforcement of this chapter.

(b) To investigate all matters which affect the administration of

this chapter, and to report violations of it to the director.

(c) To employ and, at its pleasure, discharge a manager and such clerical help and other employees as it deems necessary, and to prescribe their duties and powers and fix their compensation.

(d) To contract with, or employ, and, at its pleasure, discharge such other persons as it deems necessary, and in the cases of such of them as it shall employ, to outline their powers and duties and fix their compensation.

(e) To establish offices, and incur expenses incidental thereto.

(f) To make such contracts and other agreements as may be proper to promote the sale of beef and beef products on either a local, state, national, or international basis.

(g) To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created by state or federal law, and engaged in work or activities similar to the work and activities of the council, and recommend to the director the making of contracts and agreements with such organizations or agencies for carrying on joint programs of education, research, publicity, and advertising. In matters of research, however, the council shall cooperate with organizations of recognized professional standing which are adequately equipped with facilities for the research which is contemplated.

(h) To recommend to the director the institution and promotion of scientific research to develop or discover, or both, the health, food, therapeutic, dietetic, industrial, or other uses of beef and its products.

(i) To receive, invest, and disburse funds, pursuant to the provisions of Article 8 (commencing with Section 64691).

Funds may be allocated to agencies not specifically or solely engaged in carrying on research or promotion for beef, if the council and the director are satisfied that such allocations will be beneficial to the California beef industry, and will tend to effectuate the declared purposes of this chapter.

SEC. 6. Section 64696 of the Food and Agricultural Code is amended to read:

64696. (a) All money which is collected by the director pursuant to this chapter shall be deposited in any bank, or other depository which is approved by the Director of Finance, allocated to the purposes of this chapter only, and disbursed by the director or the council only for the necessary expenses which are incurred by the council and the director in carrying out the purposes and provisions of this chapter, including expenses generated by the auditing requirement contained in this section. Money which is so collected shall be deposited and disbursed in conformity with appropriate auditing regulations which are prescribed by the director. The expenditure of such money is exempt from the provisions of Sections 925.6 and 16304 of the Government Code.

(b) All such expenditures by the council and the director shall be audited at least once every two years by one of the following means:

(1) By contract with a certified public accountant.

(2) By contract with a public accountant holding a valid permit issued by the State Board of Accountancy.

(3) By contract with a public accounting firm.

(4) By agreement with the Department of Finance.

A copy of the audit shall be delivered within 30 days after completion of the audit to the Governor, the director, and the Controller.

CHAPTER 642

An act to amend Sections 6537.2, 6548 and 6548.5 of the Business and Professions Code, relating to barbering.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 6537.2 of the Business and Professions Code is amended to read:

6537.2. A barber college may engage any one of the following persons, who are not licensed California barber instructors, to lecture or demonstrate under the supervision of the barber college:

(a) A physician and surgeon to lecture on or demonstrate sanitation, sterilization, skin, or scalp diseases.

(b) A person whose experience or education qualifies him to lecture on phases of subjects applicable to the barber business, such as business administration, economics, bookkeeping, and taxes.

(c) A manufacturer of barbering products or his representative to demonstrate products usable in the practice of barbering.

(d) A hairstylist licensed in this state or in any other state or country to practice barbering to lecture on or demonstrate any phase of hairstyling.

(e) An organizer or officer of a barber organization to lecture on a subject affecting the welfare of the barber business.

No person engaged by a barber college, pursuant to this section, shall be engaged for more than eight hours per week.

SEC. 2. Section 6548 of the Business and Professions Code is amended to read:

6548. Not less than four times each year, two times in the southern part of the state and two times in the northern part of the state, the board shall conduct examinations to ascertain the educational qualifications of each of the following:

(a) Applicants for certificates of registration to practice as registered barbers.

(b) Applicants for certificates of registration to practice as instructors in a barber college.

The examination of applicants for certificates of registration as

registered barbers shall include both a practical demonstration and a written test and shall embrace the subjects usually taught in colleges of barbering approved by the board. The examination for a certificate of registration as a registered barber shall include the standard methods for dressing all textures of hair, including hair relaxing. The written examination shall be limited to the following subjects:

(a) Sanitation, antiseptics, sterilization, hygiene, and bacteria.

(b) Hair tonics, hairdressing preparations, and rinses.

(c) Facials and scalp massages or treatments with creams, lotions, oils, or other cosmetic preparations either by hand or mechanical appliances, but such appliances shall not be galvanic nor faradic.

(d) Shop management, implements, and a brief study of the history of barbering.

(e) Laws and regulations governing the practice of barbering.

(f) Common skin and hair diseases of the scalp, face, and neck.

(g) The structure and functions of the skin and hair of the scalp, face, and neck.

(h) Cosmetic preparations and chemicals used in the practice of barbering.

(i) Circulations, muscles, nerves, and cells of the scalp, face, and neck only as such subjects are related to massaging or other acts of barbering.

(j) Fundamentals of hair coloring and bleaching.

(k) Fundamentals of hair straightening (also known as hair relaxing).

(*l*) Hairpieces (toupees), measuring, fitting, and servicing.

(m) Waving of hair, except that waving shall not include permanent waving.

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5). The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC. 3. Section 6548.5 of the Business and Professions Code is amended to read:

6548.5. Certificates of registered barber or of registered instructor shall be issued by the board to any applicant who satisfactorily passes an examination making a grade of not less than 75 percent, who possesses the other qualifications required by law and who has remitted the certificate of registration fee required by this chapter.

An applicant taking the examination for a certificate of registration to practice as a registered barber, or registered barber instructor shall be informed on the day of the examination, the applicant's grade on the examination. Provided that the applicant has met all of the requirements of this section, the board shall issue the appropriate certificate to the applicant on the day of examination.

CHAPTER 643

An act to amend Section 2 of Chapter 297 of the Statutes of 1976, relating to genetic diseases.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 2 of Chapter 297 of the Statutes of 1976 is amended to read:

Sec. 2. The State Department of Health Services may enter into grants or contracts with facilities having research experience for programs by such facilities for basic research on lupus erythematosus.

The grants or contracts are to be approved and the programs are to be monitored by a board composed of a person appointed by the Secretary of the Health and Welfare Agency, a person appointed by the Speaker of the Assembly, and a person appointed by the President pro Tempore of the Senate. By unanimous vote, the board may, by contract, retain the services of a part-time consultant or one of its members to do onsite monitoring of the research programs, analyze grant applications, perform duties prescribed by the board, and coordinate the functions of the board. Except for the one employee assigned to perform the duties specified in this section, the board shall employ no other employee. No more than 5 percent of the amount appropriated for lupus erythematosus, research shall be used for administrative expense of the board, including its consultant.

With regards to grants, the State Department of Health Services shall comply with advance payment schedules adopted by the board, provided that the research is being performed at a campus site of the University of California. The payment schedule shall not be more frequently than quarterly, and payments shall be spread out equally over the term of the project. The first payment shall coincide with the actual commencement of the research project and the department shall have at least a 30-day notice before the first payment shall be required to be made.

CHAPTER 644

An act to amend Section 56344 of, and to add Section 56343.5 to, the Education Code, relating to special education.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 56344 of the Education Code is amended to read:

56344. An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 days, not counting days in July and August, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, such an individualized education program shall be developed within 30 days after the commencement of the subsequent regular school year for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year.

SEC. 2. Section 56343.5 is added to the Education Code, to read:

56343.5. A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (d) of Section 56343 shall be held within 30 days, not counting days in July and August, from the date of receipt of the parent's written request. If a parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 645

An act to add Section 14136.5 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 14136.5 is added to the Welfare and Institutions Code, to read:

14136.5. No entity which has received funds under paragraph (2) of subsection (b) of Section 1601 of the federal Urban Mass

Transportation Act shall receive reimbursement for medical transportation services rendered to beneficiaries of the Medi-Cal program in any amount greater or higher than the fee charged by the provider to persons for whom services are not reimbursed by Medi-Cal.

CHAPTER 646

An act to amend Sections 1747.02 and 1747.03 of the Civil Code, relating to credit cards.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1747.02 of the Civil Code is amended to read:

1747.02. As used in this title:

(a) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit. "Credit card" shall not mean any of the following:

(1) Any single credit device used to obtain telephone property, labor, or services in any transaction under public utility tariffs.

(2) Any device that may be used to obtain credit pursuant to an electronic fund transfer but only if such credit is obtained under an agreement between a consumer and a financial institution to extend credit when the consumer's asset account is overdrawn or to maintain a specified minimum balance in the consumer's asset account.

(3) Any key or card key used at an automated dispensing outlet to obtain or purchase petroleum products, as defined in subdivision (c) of Section 13401 of the Business and Professions Code, which will be used primarily for business rather than personal or family purposes.

(b) "Accepted credit card" means any credit card which the cardholder has requested or applied for and received or has signed, or has used, or has authorized another person to use, for the purpose of obtaining money, property, labor, or services on credit. Any credit card issued in renewal of, or in substitution for, an accepted credit card becomes an accepted credit card when received by the cardholder, whether such card is issued by the same or a successor card issuer.

(c) "Card issuer" means any person who issues a credit card or the agent of such person for such purpose with respect to such card.

(d) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay

obligations arising from the issuance of a credit card to another person.

(e) "Retailer" means every person other than a card issuer who furnishes money, goods, services, or anything else of value upon presentation of a credit card by a cardholder.

(f) "Unauthorized use" means the use of a credit card by a person, other than the cardholder, (i) who does not have actual, implied, or apparent authority for such use and (ii) from which the cardholder receives no benefit.

(g) An "inquiry" is a writing which is posted by mail to the address of the card issuer to which payments are normally tendered, unless another address is specifically indicated on the statement for such purpose, then to such address, and which:

(1) Sets forth sufficient information to enable the card issuer to identify the cardholder and the account;

(2) Sufficiently identifies the billing error; and

(3) Sets forth information providing the basis for the cardholder's belief that such billing error exists.

(h) A "response" is a writing which is responsive to an inquiry and mailed to the cardholder's address last known to the card issuer.

(i) A "timely response" is a response which is mailed within 60 days from the date on which an inquiry was mailed.

(j) A "billing error" means an error by omission or commission in (1) posting any debit or credit, or (2) in computation or similar error of an accounting nature contained in a statement given to the cardholder by the card issuer. A "billing error" does not mean any dispute with respect to value, quality or quantity of goods, services or other benefit obtained through use of a credit card.

(k) "Adequate notice" means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning.

SEC. 1.5. Section 1747.02 of the Civil Code is amended to read:

1747.02. As used in this title:

(a) "Credit card" means any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit. "Credit card" shall not mean any of the following:

(1) Any single credit device used to obtain telephone property, labor or services in any transaction under public utility tariffs.

(2) Any device that may be used to obtain credit pursuant to an electronic fund transfer but only if such credit is obtained under an agreement between a consumer and a financial institution to extend credit when the consumer's asset account is overdrawn or to maintain a specified minimum balance in the consumer's asset account.

(3) Any key or card key used at an automated dispensing outlet to obtain or purchase petroleum products, as defined in subdivision (c) of Section 13401 of the Business and Professions Code, which will

be used primarily for business rather than personal or family purposes.

(b) "Accepted credit card" means any credit card which the cardholder has requested or applied for and received or has signed, or has used, or has authorized another person to use, for the purpose of obtaining money, property, labor, or services on credit. Any credit card issued in renewal of, or in substitution for, an accepted credit card becomes an accepted credit card when received by the cardholder, whether such card is issued by the same or a successor card issuer.

(c) "Card issuer" means any person who issues a credit card or the agent of such person for such purpose with respect to such card.

(d) "Cardholder" means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of Sections 1747.05, 1747.10, and 1747.20, the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(e) "Retailer" means every person other than a card issuer who furnishes money, goods, services, or anything else of value upon presentation of a credit card by a cardholder.

(f) "Unauthorized use" means the use of a credit card by a person, other than the cardholder, (i) who does not have actual, implied, or apparent authority for such use and (ii) from which the cardholder receives no benefit. "Unauthorized use" does not include the use of a credit card by a person who has been given authority by the cardholder to use the credit card. Any attempted termination by the cardholder of such person's authority is ineffective as against the card issuer until such time as the cardholder complies with such procedures as may be required by the card issuer to terminate such authority. Notwithstanding the above, following the card issuer's receipt of oral or written notice from a cardholder indicating that it wishes to terminate the authority of a previously authorized user of a credit card, the card issuer shall follow its usual procedures for precluding any further use of a credit card by an unauthorized person.

(g) An "inquiry" is a writing which is posted by mail to the address of the card issuer to which payments are normally tendered, unless another address is specifically indicated on the statement for such purpose, then to such address, and which is received by the card issuer no later than 60 days after the card issuer transmitted the first periodic statement that reflects the alleged billing error, and which:

(1) Sets forth sufficient information to enable the card issuer to identify the cardholder and the account;

(2) Sufficiently identifies the billing error; and

(3) Sets forth information providing the basis for the cardholder's

belief that such billing error exists.

(h) A "response" is a writing which is responsive to an inquiry and mailed to the cardholder's address last known to the card issuer.

(i) A "timely response" is a response which is mailed within two complete billing cycles, but in no event later than 90 days, after the card issuer receives an inquiry.

(j) A "billing error" means an error by omission or commission in (1) posting any debit or credit, or (2) in computation or similar error of an accounting nature contained in a statement given to the cardholder by the card issuer. A "billing error" does not mean any dispute with respect to value, quality or quantity of goods, services or other benefit obtained through use of a credit card.

(k) "Adequate notice" means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning.

SEC. 2. Section 1747.03 of the Civil Code is amended to read:

1747.03. (a) Any rights or responsibilities created by this title that are based on the use of a credit card shall have no effect with respect to:

(1) Those transactions that constitute an electronic fund transfer as defined by Regulation E of the Federal Reserve Board (12 CFR, Part 205).

(2) Those transactions involving the use of any key or a card key used at an automated dispensing outlet to obtain or purchase petroleum products, as defined in subdivision (c) of Section 13401 of the Business and Professions Code, which will be used primarily for business rather than personal or family purposes.

(b) Notwithstanding subdivision (a), a person, company, or corporation that has been issued a key or card key described in paragraph (2) of subdivision (a) shall not be liable for losses due to the loss or theft of the key or card key incurred after receipt by the issuer of the key or card key of written or oral notification of the loss or theft.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 1919 are both chaptered and become effective January 1, 1983, both bills amend Section 1747.02 of the Civil Code, and this bill is chaptered after Senate Bill 1919, that the amendments to Section 1747.02 proposed by both bills be given effect and incorporated in Section 1747.02 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill 1919 are both chaptered and become effective January 1, 1983, both amend Section 1747.02, and this bill is chaptered after Senate Bill 1919, in which case Section 1 of this act shall not become operative.

CHAPTER 647

An act to amend Section 24100.1 of the Health and Safety Code, relating to lifeguards.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 24100.1 of the Health and Safety Code is amended to read:

24100.1. "Lifeguard service," as used in this article, means the attendance at a public swimming pool during periods of use, of one or more lifeguards who possess, as minimal qualifications, current Red Cross advanced lifesaving certificates or Y.M.C.A. senior lifesaving certificates, or have equivalent qualifications and who are trained to administer first aid, including, but not limited to, cardiopulmonary resuscitation in conformance with Section 217 and the regulations promulgated thereunder, and who have no duties to perform other than to supervise the safety of participants in water-contact activities.

CHAPTER 648

An act to add Section 5483 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 5483 is added to the Welfare and Institutions Code, to read:

5483. The State Department of Mental Health shall conduct a review of each primary prevention project at the end of one year of operation.

The purposes of such reviews are project improvement and compliance with the guidelines set forth in this chapter. The review procedure shall be adequately flexible for application to primary prevention projects of varying sizes and models.

SEC. 2. Section 1 of this act shall become operative only if Senate Bill No. 845 is chaptered and becomes effective and, in such case, shall become operative January 1, 1983.

CHAPTER 649

An act to add Section 13075 to the Government Code, relating to the Department of Finance.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 13075 is added to the Government Code, to read:

13075. (a) When authorized or required by the Legislature in the Budget Act, the Department of Finance may exercise control over the adoption of regulations as provided in this section. The Legislature shall not authorize or require the Department of Finance in the Budget Act to review and approve regulations adopted by state agencies except:

(1) Regulations adopted by the Department of Social Services which add to the cost of any public assistance programs as these are defined in Section 10061 of the Welfare and Institutions Code.

(2) Regulations adopted by a state agency which would have the effect of increasing expenditures from the Health Care Deposit Fund under the Medical Assistance Program.

The Department of Finance shall limit its review of a regulation under this section to making a determination as to whether sufficient funds are available to fund the added program expenditures which would be incurred if the regulation were adopted. In making the determination concerning the sufficiency of funds to meet the costs of the regulation, the Director of Finance shall consider the amount of the costs which would be added to the program or the increased expenditures from the Health Care Deposit Fund for the fiscal year during which the costs or expenditures would be incurred, the effect such a change would have on the expenditure limitations established in the Budget Act for that year, and the extent to which the regulation constitutes a deviation from the program requirements, the assumptions, and the estimates which were the basis for establishing the expenditure limitations in the Budget Act.

(b) The Department of Finance shall issue written instructions to the state agencies which adopt regulations subject to the provisions of this section. The instructions shall include the data requirements, methods of estimating costs or expenditures, and the narrative explanation which the department requires in order to review regulations which it is authorized or required to review. The instructions shall also include an explanation of the department's review procedures and the methods the department uses in making decisions concerning the sufficiency of funds to pay for added program costs or increased expenditures.

(c) The Department of Finance shall complete the review of any

regulation subject to the provisions of this section within 15 working days following its receipt. If the department fails to act within that period of time, the regulation shall be deemed approved by the department.

CHAPTER 650

An act to amend Section 1026.5 of the Penal Code, relating to mental disorder, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1026.5 of the Penal Code is amended to read:

1026.5. (a) (1) In the case of any person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned under Sections 2930 to 2932, inclusive.

(2) In the case of a person confined in a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony prior to July 1, 1977, and who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b). The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court.

However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of September 28, 1979. Within 90 days of the date the person is received by the state hospital or other treatment facility, or of September 28, 1979, whichever is later, the Board of Prison Terms shall provide each person with the determination of the person's maximum term of commitment or shall notify such person that a hearing will be scheduled to determine the term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other treatment facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604 who committed a misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other treatment facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b) (1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if such person has been committed under Section 1026 for a felony of murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of subdivision 2 or 3 of Section 261, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310, or if the defendant has been found guilty of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, and who by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) Not later than 180 days prior to the termination of the maximum term of commitment prescribed in subdivision (a), the medical director of a state hospital or other treatment facility shall submit to the prosecuting attorney his or her opinion as to whether

or not the patient is a person described in paragraph (1). If requested by the prosecuting attorney, the opinion shall be accompanied by supporting evaluations and relevant hospital records. The prosecuting attorney may then file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in paragraph (1).

(3) When such a petition is filed, the court shall advise the person named in the petition of the right to be represented by an attorney and of the right to a jury trial. The rules of discovery in criminal cases shall apply.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless such time is waived by the person.

(5) The person shall be entitled to the rights guaranteed under the federal and state Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(6) If the court or jury finds that the patient is a person described in paragraph (1), the court may order the patient recommitted to the facility in which the patient was confined at the time the petition was filed for an additional period of two years from the date of termination of the previous commitment.

(7) A person committed under this subdivision shall be eligible for release to outpatient status or parole pursuant to the provisions of Title 15 (commencing with Section 1600) of Part 2.

(8) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the patient remains a person described in paragraph (1). Such recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(9) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the

underlying causes of the person's mental disorder.

SEC. 2. Notwithstanding the provisions of subdivision (b) of former Section 6316.2 of the Welfare and Institutions Code, in any case subject to the provisions of that section, not later than 180 days prior to the termination of the maximum term of commitment the Director of Mental Health shall submit to the prosecuting attorney his or her opinion as to whether or not the patient is a person described in subdivision (a) of former Section 6316.2. If requested by the prosecuting attorney, the opinion shall be accompanied by supporting evaluations and relevant hospital records. The prosecuting attorney may then file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a) of former Section 6316.2.

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

In order to advance the interest of public safety by providing prosecutors with consistent and expeditious means of filing extended commitment petitions for persons committed under Section 1026 of the Penal Code and mentally disordered sex offenders who pose a substantial danger of bodily harm to others, it is necessary that this act go into immediate effect.

CHAPTER 651

An act to amend, repeal, and add Section 8574.8 of, the Government Code, relating to toxic disasters.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 8574.8 of the Government Code is amended to read:

8574.8. (a) A state toxic disaster contingency plan established pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs. During the preparation of the toxic disaster contingency plan, the Office of Emergency Services shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The Office of Emergency Services shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the toxic disaster contingency plan.

(c) Any state or local agency having knowledge of a toxic disaster shall ensure that the disaster is promptly reported to the Office of Emergency Services. State or local agencies may comply with the requirement of this subdivision for on-highway toxic disasters by completing the notification specified in Section 2453 of the Vehicle Code. However, if the California Highway Patrol is notified of an on-highway toxic disaster pursuant to Section 2453 of the Vehicle Code, it shall promptly notify the Office of Emergency Services.

(d) The Office of Emergency Services shall establish and maintain a listing of all toxic disasters occurring in California, including a description of the disaster, the location, the time and date, the state and local agencies responding to the disaster, the actions taken by these agencies, and the agency which had primary authority for responding to the disaster.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed.

SEC. 2. Section 8574.8 is added to the Government Code, to read:

8574.8. (a) A state toxic disaster contingency plan established pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs. During the preparation of the toxic disaster contingency plan, the Office of Emergency Services shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic

disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The Office of Emergency Services shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the toxic disaster contingency plan.

(c) This section shall become operative on January 1, 1989.

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

CHAPTER 652

An act to amend Section 5705.2 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 5705.2 of the Welfare and Institutions Code is amended to read:

5705.2. Negotiated net amounts or rates may be used as the cost of services only in accordance with the following subdivisions:

(a) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of all or part of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For negotiated net amounts contracts that provide for the delivery of 75 percent or more of the total county Short-Doyle annual plan, the contracting organization shall bear the financial responsibility for

the local match requirement, which shall not include state or federal funds directly allocated to the contracting organizations, for the portion of the county program covered by the contract.

(b) Negotiated rates may be used as the cost of services in contracts by providers with counties. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

CHAPTER 653

An act to amend Section 234 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982]

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

SECTION 1. Section 234 of the Public Utilities Code is amended to read:

234. "Telephone corporation" includes every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.

"Telephone corporation" does not include any hospital, hotel, motel, or similar place of temporary accommodation owning or operating message switching or billing equipment solely for the purpose of reselling services provided by a telephone corporation to its patients or guests.

CHAPTER 654

An act to add Section 58842.5 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982]

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

SECTION 1. Section 58842.5 is added to the Food and Agricultural Code, to read:

58842.5. Any raisin marketing order or agreement involving

producers operating under this chapter shall provide for, and the director shall appoint, a person to represent cooperative bargaining associations organized pursuant to Chapter 2 (commencing with Section 54401) of Division 20 from nominations made by the associations to the advisory board.

The person so appointed shall be a voting member of the advisory board.

CHAPTER 655

An act to amend Sections 13350 and 13361 of, to add Section 14601.3 to, and to repeal and add Section 13351 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 13350 of the Vehicle Code is amended to read:

13350. (a) The department shall immediately revoke the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(1) Failure of the driver of a vehicle involved in an accident resulting in injury or death to any person to stop or otherwise comply with Section 20001.

(2) Any felony in the commission of which a motor vehicle is used, except as provided for in Sections 13352 and 13357.

(3) Reckless driving causing bodily injury.

(b) The department shall not renew the privilege revoked under subdivision (a) until the expiration of one year after the date of revocation and until the person whose privilege was revoked gives proof of ability to respond in damages as defined in Section 16430.

SEC. 2. Section 13351 of the Vehicle Code is repealed.

SEC. 3. Section 13351 is added to the Vehicle Code, to read:

13351. (a) The department shall immediately revoke the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(1) Manslaughter resulting from the operation of a motor vehicle except when convicted under paragraph (b) of subdivision 3 of Section 192 of the Penal Code.

(2) Upon conviction of three or more violations of Section 20001, 20002, 23103, or 23104 within a period of 12 months from the time of the first offense to the third or subsequent offense, or upon a combination of three or more convictions of violations within a like

period.

(b) The department shall not renew the privilege revoked under subdivision (a) until the expiration of three years after the date of revocation and until the person whose privilege was revoked gives proof of ability to respond in damages as defined in Section 16430.

SEC. 4. Section 13361 of the Vehicle Code is amended to read:

13361. The department may suspend the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(a) Failure to stop in the event of an accident resulting in damage to property only, or otherwise failing to comply with the requirements of Section 20002.

(b) A second or subsequent conviction of reckless driving.

(c) Manslaughter resulting from the operation of a motor vehicle as provided in paragraph (b) of subdivision 3 of Section 192 of the Penal Code.

In any case under this section the department is authorized to require proof of ability to respond in damages as defined in Section 16430.

SEC. 5. Section 14601.3 is added to the Vehicle Code, to read:

14601.3. (a) It is unlawful for a person whose driving privilege has been suspended or revoked to accumulate a driving record history which results from driving during the period of suspension or revocation. A person who violates this subdivision is designated a habitual traffic offender.

For purposes of this section, a driving record history means any of the following, provided that the driving occurred during the period of suspension or revocation:

(1) Two or more convictions within a 12-month period of an offense given a violation point count of two pursuant to Section 12810.

(2) Three or more convictions within a 12-month period of an offense given a violation point count of one pursuant to Section 12810.

(3) Three or more accidents within a 12-month period that are subject to the reporting requirements of Section 16000.

(4) Three or more instances within a 12-month period of failure to appear in a court after promising or being ordered to do so on a traffic violation matter.

(b) Knowledge of suspension or revocation of the driving privilege shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(c) The department, within 30 days of receipt of a duly certified abstract of the record of any court or accident report which results in a person being designated a habitual traffic offender, shall execute and transmit by certified mail a notice of that designation to the office of the district attorney having jurisdiction over the location of

the person's last known address as contained in the department's records.

(d) The district attorney, within 30 days of receiving the notice required in subdivision (c), shall inform the department of whether or not the person will be prosecuted for being a habitual traffic offender.

(e) Any person convicted under this section of being a habitual traffic offender shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for 30 days and by a fine of five hundred dollars ($500).

(2) Upon a second or any subsequent offense within seven years of a prior conviction under this section, by imprisonment in the county jail for 180 days and by a fine of one thousand dollars ($1,000).

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 656

An act to amend Sections 701, 825, and 826 of, and to add Article 8 (commencing with Section 830) to Chapter 2 of Division 1 of, the Elections Code, relating to elections.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

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

701. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 707.5, 707.6, and 707.7.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Section 706, 801, or 830.

SEC. 2. Section 825 of the Elections Code is amended to read:

825. From moneys appropriated by the Legislature, the

Controller shall reimburse counties for additional costs incurred by counties for purging voter registration files pursuant to Article 5 (commencing with Section 700), Article 6 (commencing with Section 800), and Article 8 (commencing with Section 830). Reimbursement shall be made for costs incurred only in connection with purges for the direct primary election and the general election, as defined by Sections 20 and 23.

The amount reimbursable to each county shall be determined by multiplying the statewide average cost per registered voter by the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. The statewide average cost per registered voter shall be determined by the Secretary of State based on the claims submitted for reimbursement for the 1978 purge of voter registration files, which cost shall not exceed ten cents ($0.10).

SEC. 3. Section 826 of the Elections Code is amended to read:

826. Any claim submitted to the Controller pursuant to this article shall state whether the purge was conducted pursuant to Article 5 (commencing with Section 700), Article 6 (commencing with Section 800), or Article 8 (commencing with Section 830), that the county had reimbursable costs and the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 607. The claims shall be made to the Controller by October 31 of the next even-numbered year in which a primary and general election are held.

SEC. 4. Article 8 (commencing with Section 830) is added to Chapter 2 of Division 1 of the Elections Code, to read:

Article 8. Alternative Procedures and Costs

830. The provisions of this article establish a pilot project in the County of Alameda. The project shall terminate on December 30, 1984.

830.5. (a) In lieu of the procedures for the cancellation of affidavits of registration for failure to vote following a statewide general election provided for in Article 5 (commencing with Section 700) and Article 6 (commencing with Section 800), the county clerk shall adopt the provisions of this article.

(b) If a voter fails to vote at the previous general election, the county clerk shall, no later than the first day of the following January, mail to the voter at the address shown on his or her affidavit of registration or that shown on the last application for transfer of registration, a forwardable, prepaid, postcard notice, with a return notice to the clerk. One portion of the postcard shall contain a notice which shall be substantially in the following form:

"Our records indicate that you did not vote in the General Election on November _____, 19__.

If you still live at the residence address shown on your affidavit

of registration and wish to remain a registered voter, check the appropriate box on the attached card, sign the card and mail it postage free.

If you have moved to a new address within

_____ County,

(name)

write the new address and your signature on the attached card and mail it postage free.

If the attached card is not signed and returned within thirty days of the date shown below, your registration will be cancelled and you will be required to reregister before you will again be entitled to vote.

If you are no longer a resident of

_____ County,

(name)

your registration will be cancelled and you will be required to register in your new county or state before being entitled to vote.

Dated _____ "

(c) The second portion of the postcard, which shall be a postage-prepaid postcard return notice to the clerk, shall indicate that the voter, under penalty of perjury, continues to reside at the address shown on his or her affidavit of registration and wishes to remain a registered voter or wishes to enter a change of address in the same county in which he or she was registered. The postage-prepaid return notice to the clerk shall include space for the correction of the address shown on the affidavit of registration and space for the signature of the voter.

(d) If, within 30 days after mailing the postcard, the clerk receives a signed, written notice that a voter has not moved, or has moved within the county, that voter's affidavit of registration shall still be valid and the clerk shall make all appropriate corrections.

(e) The affidavit of registration of any voter who did not vote at the previous general election and who does not return the postage-prepaid return notice pursuant to subdivision (c) within the prescribed period shall be canceled. The affidavit of registration shall be deemed to be canceled on the 30th day following the date the forwardable postcard notice was mailed to the voter.

831. Before every election and on election day the clerk shall:

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

(b) Or, in the alternative, supply each polling place with a list of voters in the precinct whose affidavits of registration were canceled pursuant to subdivision (e) of Section 830.

At every election the clerk shall provide a page in the Roster of Voters for the signature, under oath, attesting to continuous residency in the precinct, of any voter whose affidavit may have

been canceled pursuant to subdivision (e) of Section 830. Canceled affidavits of registration of voters whose signatures appear on that roster page shall be reinstated by the clerk.

CHAPTER 657

An act to amend Section 66499 of the Government Code, relating to land subdivision.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 66499 of the Government Code is amended to read:

66499. (a) Whenever this division or a local ordinance authorizes or requires the furnishing of security in connection with the performance of any act or agreement, such security shall be one of the following at the option of and subject to the approval of the local agency:

(1) Bond or bonds by one or more duly authorized corporate sureties.

(2) A deposit, either with the local agency or a responsible escrow agent or trust company, at the option of the local agency, of money or negotiable bonds of the kind approved for securing deposits of public moneys.

(3) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter of credit issued by such a financial institution.

(4) A lien upon the property to be divided, created by contract between the owner and the local agency, if the local agency finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map.

(5) Any form of security, including security interests in real property, which is acceptable to the local agency and specified by ordinance thereof.

(b) Any contract or security interest in real property entered into as security for performance pursuant to paragraph (4) or paragraph (5) of subdivision (a) shall be recorded with the county recorder of the county in which the subject real property is located. From the time of recordation of the written contract or document creating a security interest, a lien shall attach to the real property particularly described therein and shall have the priority of a judgment lien in an amount necessary to complete the agreed to improvements. The

recorded contract or security document shall be indexed in the Grantor Index to the names of all record owners of the real property as specified on the map and in the Grantee Index to the local agency approving the map.

The local agency may at any time release all or any portion of the property subject to any lien or security interest created by this subdivision or subordinate the lien or security interest to other liens or encumbrances if it determines that security for performance is sufficiently secured by a lien on other property or that the release or subordination of the lien will not jeopardize the completion of agreed upon improvements.

CHAPTER 658

An act to amend Section 11019 of the Government Code, and to repeal Section 3 of Chapter 760 of the Statutes of 1979, relating to public contracts.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 11019 of the Government Code is amended to read:

11019. (a) Any department specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and such laws, during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when such advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of two hundred thousand dollars ($200,000) or less, or which the State Department of Finance determines has been entered into with any community-based private nonprofit agency with modest reserves and potential cash flow problems. No advance payment shall be granted if the total annual contract exceeds two hundred thousand dollars ($200,000), without the prior approval of the State Department of Finance.

The specific departments mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each such plan shall include a procedure whereby the department

determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each such plan is required to be approved by the Department of Finance.

(b) Subdivision (a) shall apply to the Department of Aging, the State Department of Alcohol and Drug Programs, the Department of Corrections, the Employment Development Department, the State Department of Health Services, the State Department of Mental Health, the Department of Rehabilitation, the State Department of Social Services, the Department of the Youth Authority, and the Department of Education.

Subdivision (a) shall also apply to the Health and Welfare Agency which may make advance payments, pursuant to the requirements of that subdivision, to multipurpose senior services projects as established in Sections 9400 to 9413, inclusive, of the Welfare and Institutions Code.

(c) A county may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and such laws, during the fiscal year to the private nonprofit agency.

SEC. 2. Section 3 of Chapter 760 of the Statutes of 1979 is repealed.

CHAPTER 659

An act to amend Sections 25257 and 25258 of the Government Code, relating to financial powers of county boards of supervisors.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 25257 of the Government Code is amended to read:

25257. Any department, officer, or employee of a county or a judicial district in the county, charged by law with the collection of any county or district tax assessment, penalty, cost, license fees, or any judicial district fine, assessment, or penalty, or any money, which is due and payable to the county or district for any reason, may apply to the board of supervisors for a discharge from accountability for the collection thereof if the amount is too small to justify the cost of collection, the likelihood of collection does not warrant the expense

involved, or the amount thereof has been otherwise lawfully compromised or adjusted.

SEC. 2. Section 25258 of the Government Code is amended to read:

25258. The application for a discharge from accountability shall include:

(a) The amount owing.

(b) Except where disclosure of such information is prohibited by state or federal law, the names of the assessees or persons liable and the amounts owed by each, which may be by reference to specific documents incorporated thereby in the application.

(c) The estimated cost of collection, or a statement that the likelihood of collection does not warrant the expense involved, or a specific reference to the official records establishing that the amount owed has been compromised or adjusted. If requested by the board of supervisors, the applicant shall furnish such additional information as the board deems necessary to determine that the request for discharge is justified.

(d) Any other fact warranting the discharge, except where the board of supervisors determines that the circumstances do not warrant the furnishing of detailed information.

(e) A verification by the applicant that the facts stated in the application are true and correct, which may be made on information and belief.

CHAPTER 660

An act to add Sections 1640.1 and 1641.1 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1640.1 is added to the Revenue and Taxation Code, to read:

1640.1. (a) The clerk shall transmit by mail to the protesting party and shall transmit to the county board of equalization or assessment appeals board the hearing officer's report and recommendation on the assessment protest. The protesting party shall be informed that the county board of equalization or the assessment appeals board is not bound by the recommendation of the assessment hearing officer and that he or she is entitled to a full hearing before the county board or the assessment appeals board.

(b) The provision of this section shall supersede the provisions of Section 1641 in those counties in which the board of supervisors by resolution adopts the provisions of this section.

SEC. 2. Section 1641.1 is added to the Revenue and Taxation Code, to read:

1641.1. (a) Upon being notified of the recommendation of an assessment hearing officer, the protesting party may request the county board of equalization or assessment appeals board to accept the recommendation of the assessment hearing officer. The assessor may request the board to reject the recommendation of the assessment hearing officer. The county board of equalization or assessment appeals board shall, without further testimony, do either of the following:

(1) Accept the recommendation and change the assessed value in accordance with Section 1610.8.

(2) Reject the recommendation and set the application for reduction for hearing by the local board of equalization.

If a request is not filed with the county board of equalization or assessment appeals board, the protesting party may, within 14 days after mailing of the hearing officer's report and recommendation, make application for a hearing before the county board or the assessment appeals board, and the application shall be set for hearing by the county board or the assessment appeals board. The board may consider, but shall not be bound by, the recommendation of the assessment hearing officer.

(b) The provisions of this section shall supersede the provisions of Section 1641 in those counties in which the board of supervisors by resolution adopts the provisions of this section.

CHAPTER 661

An act to amend Sections 6, 7, 9, 22(a), 28, 32, 35, 38, 39, 40, and 43 of, and to repeal and add Sections 5, 8, 11, 13, 14, 15, 26, 31, and 46 of, the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), relating to the Fresno Metropolitan Flood Control District.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. The legislative bodies of the City of Fresno, the City of Clovis, and the Board of Supervisors of the County of Fresno are joint parties of interest pursuant to this act and shall constitute the appointing bodies, appointing persons to the board of directors of the district as set forth in this act. The district shall be deemed an "advisory agency," as defined in Section 66415 of the Government Code, for the purpose of appeals which shall be conducted in the manner prescribed in Section 66452.5 of the Government Code.

SEC. 2. Section 5 of the Fresno Metropolitan Flood Control

District Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 3. Section 5 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 5. The governing board of the district shall consist of a board of directors of seven members. The legislative body of the City of Fresno shall appoint four members to the board, none of whom shall be public officials of the city. The Board of Supervisors of the County of Fresno shall appoint two members to the board, none of whom shall be public officials of the county. The legislative body of the City of Clovis shall appoint one member to the board, who shall not be a public official of the City of Clovis. The appointing body may remove any member of the board appointed by it at any time by a majority vote of the whole number of members of such body. All members of the board of directors shall reside within the district. The County Assessor, County Tax Collector, County Auditor and County Treasurer of the County of Fresno, and their successors in office, shall be ex officio officers of the district, and their assistants, deputies, clerks and employees shall be ex officio assistants, deputies, clerks and employees, respectively, of the district, and those ex officio officers shall respectively perform, unless otherwise provided by the board of directors, without additional compensation, the same various duties for the district as for the County of Fresno, in order to carry out the provisions of this act. The secretary of the board of directors shall be appointed by the board. The board may also appoint such attorneys, engineers and other employees as it may see fit.

SEC. 4. Section 6 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 6. Within 30 days after creation of the district the appointive members of the Board of Directors shall be appointed by the legislative body of the city and the board of supervisors, respectively, and all of the directors shall qualify by taking and filing with the County Clerk of Fresno County the oath of office provided for public officials. They shall, as soon as convenient, meet and organize by the selection of one of their number as chairman of the board. They shall also select the secretary of the board. The members appointed to the board shall at the first meeting so classify themselves that of the appointive members one of the members appointed by the board of supervisors shall hold office for two years and one shall hold office for four years, and two of the members appointed by the legislative body of the city shall hold office for two years and two shall hold office for four years. After completion of the first terms of the first directors, all appointive directors shall be appointed and hold office for terms of four years. Within 30 days after the effective date of the amendment of this section enacted at the 1981–82 Regular Session of the Legislature, new appointive members required by this section shall be appointed by the legislative bodies of the City of Fresno and the City of Clovis, shall take and file the oath of office, and shall be seated as district directors. The director appointed by the legislative

body of the City of Fresno shall assume the term now held by the member of the legislative body of the city serving as a director. The director appointed by the legislative body of the City of Clovis shall assume the term beginning August 3, 1982. The Director of Public Works of the City of Fresno shall continue to serve as a member of the board of directors until the City of Fresno appoints a new member to replace either public official of the City of Fresno now serving as a member or appoints a new member to replace any member previously appointed by the City of Fresno. The Director of Public Works of the County of Fresno shall continue to serve as a member of the board of directors until the City of Clovis appoints a new member pursuant to this section.

The chairman of the board shall hold office for a term of two years from the date of his election as chairman. The secretary of the board shall hold office at the pleasure of the board. Four members of the board shall constitute a quorum, and the decision of a majority of all of the members of the board shall be necessary to take any action, unless otherwise in this act provided; provided, however, that if a meeting is not attended by a majority of the members of the board a lesser number may adjourn the meeting to a specified time and any meeting may be adjourned by the vote of a majority of the members present.

The board shall by resolution fix a regular time and place of meeting, and no notice of regular meetings need be given. The board shall also provide the method of calling special meetings and of giving notice thereof, but no special meeting shall be called upon less than 24 hours notice, except that in an emergency a special meeting may be called upon not less than three hours notice or may be held pursuant to a waiver of notice signed by all members of the board and filed with the minutes of the meeting. Any such emergency call or waiver shall set forth a general statement of the facts deemed to create the emergency. No defect in such statement shall invalidate the special meeting. If any vacancy occurs in any appointive office of the board of directors, such vacancy shall be filled within 60 days from the date it occurs in the same manner as the original appointment was made. If any director is absent from three consecutive meetings of the board of directors, the secretary of the board shall report the absence to the appointing body. The board shall adopt a seal. It may also provide rules and regulations for the conduct of its meetings and may change such rules and regulations from time to time.

SEC. 5. Section 7 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 7. The objects and purposes of this act and of said district shall be to provide for (1) the control of flood, storm and other waste waters of or within said district, including waters which arise outside said district and which flow or drain into or through the said district; (2) the protection from damage by flood, storm or waste waters of private property and of public highways and other public property

within said district; and (3) the conservation of flood, storm, waste, and other surface waters for beneficial and useful purposes by spreading, storing, retaining or causing such waters, or any part thereof, to percolate into the soil within or without said district or the saving and conservation in any manner of any or all of such waters.

SEC. 6. Section 8 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 7. Section 8 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 8. The district shall be and constitute a public corporation, and as such has the powers enumerated in this act, all powers necessarily or reasonably implied therefrom, and all powers necessarily or reasonably implied from the creation and existence of such district. The powers include the following:

1. To have perpetual succession.

2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To have and exercise the power of eminent domain.

4. To take by grant, exchange, purchase, including for cash, promissory note secured by purchase money deed of trust, assumption of existing indebtedness, or any combination thereof, gift, lease, devise or otherwise and to hold, use and enjoy real or personal property of every kind within or without the district necessary to or convenient for the full exercise of its powers.

5. To acquire lands, rights-of-way, easements, privileges and property of every kind and nature, to construct, maintain and operate any or all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized, or, pursuant to a contract authorized by paragraph 10 of this section, any works or improvements owned or constructed by the City of Fresno, the City of Clovis, the County of Fresno, Fresno Irrigation District, or any other public agency, or any two or more thereof, and used in whole or in part for flood control, storm drainage or water conservation purposes.

6. To levy or cause to be levied as herein provided, upon real property in the district, taxes for the purpose of providing funds for the district and for paying any obligations thereof.

7. To levy or cause to be levied assessments or benefit assessments as provided by the Water Code, the Revenue and Taxation Code, the Government Code, or the Streets and Highways Code.

8. To incur indebtedness and to issue notes, bonds or other evidence of such indebtedness in the manner herein provided.

9. To make contracts and to employ appraisers, consultants, attorneys, engineers and other technical advisers and all employees necessary or convenient for the administration of the district, the maintenance and operation of any works under its jurisdiction, and the planning of any works or construction under this act.

10. To contract with the City of Fresno, County of Fresno, Fresno Irrigation District, or any other public agency or any public utility for the use of any rights-of-way, easements, lands, works or property owned by any thereof which are necessary, convenient or useful to the district or necessary or convenient for the construction or operation of any flood control works or storm drain works proposed to be financed by the flood control district; to contract with any of such public agencies for the acquisition or construction by such public agency of any flood control or storm drain works financed by the district, or the maintenance and operation thereof, or for any or all of the foregoing, and the flood control district may carry out any or all of its powers either separately or in conjunction with one or more of the public agencies, and may make any contract or lease or accept any conveyance of property necessary or convenient for the accomplishment of the purposes of the flood control district. The powers granted by this subparagraph shall be liberally construed.

11. To develop property for recreational uses and purposes in connection with the use thereof for control or conservation of waters or to lease to or contract with individuals or public or private agencies for use or for development and use thereof for the recreational purposes.

12. To sell or dispose of real property, rights to surface or groundwaters, or any interest therein or part thereof whenever, in the judgment of two-thirds of the board of directors, the real property, water rights, or interest therein or part thereof is no longer required for the purposes of the district and to pay any compensation received therefor into the general fund of the district and use the same for the purposes of this act. To lease or let real property or rights to surface or groundwaters and sell, dispose of, lease or let personal property, or any interest therein or part thereof, whenever, in the judgment of a majority of all the members of the board of directors, the real or personal property or interest therein or part thereof is no longer required for the purposes of the district or may be leased or let for any purpose without interfering with the use thereof for the purposes of the district, and to pay any compensation received therefor into the general fund of the district and use the same for the purposes of this act.

13. To acquire by grant, purchase, gift, lease, devise, permit, or otherwise and to hold, use, and enjoy the rights to surface and groundwaters and to undertake those acts necessary to the beneficial use of such waters.

14. To levy fees and charges for the services, supplies, or material provided by district, the fees and charges, duly adopted by resolution of the district, not to exceed the actual cost of the services, supplies, or material.

SEC. 8. Section 9 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 9. The district may enter into contracts and do any and all acts necessary or proper for the performance of any agreement with

the United States or the State of California or the County of Fresno, the City of Fresno, the City of Clovis, or the Fresno Irrigation District, or any public or private corporation, association, firm or individual, or any number of them for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any levees, works, canals or other property of any kind which might lawfully be acquired or owned by the district, and may acquire the right to carry water through any artificial watercourse, canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of any such canal, ditch or conduit (including any artificial watercourse used in part for irrigation purposes) the right to the use of any water carried through any such artificial watercourse, canal, ditch or conduit, or any canal, ditch or conduit of the district. Said district may also agree to indemnify the United States of America, the State of California, or any county, city, or irrigation district which manages, controls, or operates works constructed by or for or used by the flood control district for flood control, drainage or water conservation purposes.

SEC. 9. Section 11 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 10. Section 11 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 11. Each member of the board of directors shall receive not to exceed fifty dollars ($50) for each day's attendance at meetings of the board or committees of the board, provided, however, that these members shall not be compensated for more than two such meetings in any calendar month. Further, each such member of the board of directors shall be entitled to a per diem not exceeding fifty dollars ($50) per day while engaged in other official business under the order of the board. Each member of the board of directors, whether or not an official of a public entity, shall receive his actual and necessary expenses while engaged in official business under the order of the board.

SEC. 11. Section 13 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 12. Section 13 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 13. All contracts for materials, supplies, or for the construction or repair of works or improvements which has a contract price exceeding five thousand dollars ($5,000) shall be let to the lowest responsible bidder after notice inviting bids is published in the district pursuant to Section 6061 of the Government Code, the publication to be not less than 10 days prior to the date set for the opening of bids. Such contracts may be let by the board without public bidding where (1) they are entered into with any other public agency for governmental entity, (2) the contract price does not exceed five thousand dollars ($5,000), or (3) an emergency threatening the public health, safety, and welfare has been declared

by the board. Contracts for the maintenance or operation of district works or improvements may be negotiated when determined by board to be in the public interest.

SEC. 13. Section 14 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 14. Section 14 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 14. (a) The district may borrow money and incur indebtedness for its ordinary expenses and to pay engineers, attorneys, and other employees of the district. Each such borrowing shall be authorized by a resolution of the board of directors and shall be evidenced by a note or notes. The total amount so borrowed shall not at any time exceed the amount which could be raised by a ten cent ($0.10) tax levy upon all taxable real property which is subject to such levy in the district as shown by the last equalized assessment roll. If the borrowing comes before an assessment roll for the district has been equalized, the county auditor shall estimate the assessed value of the real property which is subject to such levy in the district and furnish his certificate of such estimate to the board of directors of the district. The board of directors may borrow an amount not to exceed the sum which could be raised by a ten cent ($0.10) levy upon such estimated value of real property which is subject to such levy. For the purpose of such borrowing the certificate of valuation of the county auditor shall be final and conclusive. Any moneys so borrowed with interest thereon shall be repaid from the proceeds of the next succeeding tax levy or earlier if funds become available therefor.

(b) The district may borrow money and incur indebtedness to construct, repair, operate, or maintain improvements required as a result of declared emergencies or disasters. Each such borrowing shall be authorized by resolution of the board of directors. The total amount so borrowed shall not exceed the sum which could be raised by a ten cent ($0.10) tax levy upon the taxable real property of the district. If such borrowed funds are provided through a designated emergency or disaster program, the district may repay such loan in accordance with the provisions of such program. The district may also borrow from the State of California or the United States moneys provided by such units of government for the performance of local responsibilities required in conjunction with state or federal flood control, drainage, or water conservation, projects. Where no repayment term is specified in the special loan programs relating to declared emergencies, disasters, or state or federal programs, the loans shall be repaid within a period not to exceed 40 years.

SEC. 15. Section 15 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 16. Section 15 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 15. The district may incur a bonded indebtedness for the acquisition and construction of flood control works, including the

acquisition of easements and property, to provide for (a) the control of flood, storm, or other waste waters of or within the district, including waters which arise outside the district and which flow or drain into or through the district; (b) the protection from damage by flood, storm, or waste waters of highways and private and public property within the district; and (c) the conservation of flood, storm, waste, and other surface waters for beneficial and useful purposes. The election therefor shall be called by resolution, and the resolution shall state the amount of principal of the indebtedness proposed to be incurred for these purposes, the maximum rate of interest to be paid on the indebtedness which shall not exceed the maximum legal rate at the time of such election, the manner of holding such election and of voting for or against the incurring of such indebtedness.

SEC. 17. Section 22(a) of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 22(a). If the board of directors determines that the money needed by the district for acquisition and construction of land and improvements has been reduced by reason of the completion of works of improvement in a natural drainage area with defined boundaries, then the board may proportionately reduce the amount to be assessed upon the taxable real property in such drainage area for the fiscal year, so that the property owners in such drainage area will not be assessed for costs of acquisitions and improvements outside of such drainage area not of benefit to the property owners, and the board of directors may request that the board of supervisors determine the rate of assessment tax separately for such drainage area.

SEC. 18. Section 26 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), is repealed.

SEC. 19. Section 26 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 26. The power of eminent domain vested in the board of directors of the district shall be exercised pursuant to the California Eminent Domain Law (commencing with Section 1230.010ff of the Code of Civil Procedure).

SEC. 20. Section 28 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 28. The words hereinafter defined shall be given the meaning stated in this section, unless the context of the word as used at a particular place in the act indicates a different meaning at such place.

1. As used in this act,

(a) "District" means "Fresno Metropolitan Flood Control District";

(b) "Board" means "board of directors of said district";

(c) "County" means "County of Fresno";

(d) "City" means "City of Fresno" when the land and works are within the City of Fresno and the "City of Clovis" when the land or works are within that city;

(e) "Irrigation district" means "Fresno Irrigation District";

(f) "Board of supervisors" means "Board of Supervisors of the County of Fresno."

2. As used in this act, the words "flood control works" include dams, reservoirs, canals, ditches, drains, the improvement of natural or artificial watercourses, and the acquisition and construction of any and all improvements appurtenant to or necessary for any flood control, drainage, or water conservation work or works, and include the acquisition of any land, easements, property or rights necessary for said flood control, drainage, or water conservation works.

3. As used in this act, the term "public official" means all appointed or elected officials and officers, including employees, of the City of Fresno, the City of Clovis, and the County of Fresno.

SEC. 21. Section 31 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 22. Section 31 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 31. Any parcel of land may be annexed to the district, when such land shall have been found by the board of directors to benefit, and any parcel of land may be excluded from the district, when such land shall have been found by the board of directors not to benefit, pursuant to this section.

The board of directors of the district may initiate annexation or exclusion proceedings by the adoption of a resolution of intention, or such action may be commenced by the filing of a petition.

SEC. 23. Section 32 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 32. A petition for annexation or exclusion shall be filed by not less than 25 percent in number of the owners of land owning not less than 25 percent of the total surface acreage proposed to be annexed or excluded, and shall be addressed to and filed with the board.

"Owner" shall be defined as a holder of title or holder of a portion of title identified on the last equalized assessment roll of the County of Fresno. In all matters in this section, the last equalized assessment roll of the County of Fresno shall be prima facie evidence as to the ownership of real property, the names and number of persons who are the holders of title or portion of title. Executors, administrators, trustees or guardians may sign for a named holder of title when such signature is supported by written authorization to so represent the named holder of title.

SEC. 24. Section 35 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 35. The notice shall state:

1. The date on which the petition was filed, or the date of adoption of the resolution of intention,

2. The petitioners' names, if any,

3. The location and boundaries of land described in the petition or resolution of intention,

4. The prayer of the petition, if any,

5. The time and place fixed for hearing the petition,

6. If determined by the board of directors, a statement of the payment to be required pursuant to Section 44, and

7. That all persons interested in or affected by such change in the district boundaries may appear and show cause why the change should not be made,

8. That each holder of title or each joint holder of title may submit a signed written protest identifying the name of the protesting holder of title, the street address or other description sufficient to identify the protesting owner's property on the last equalized assessment roll, and that the signed written protest of any joint holder of title shall constitute a protest of an owner of land, and that executors, administrators, trustees, and guardians may sign such protest for a holder or joint holder of title when such signature is accompanied by written authorization to so represent the named holder of title,

9. The name and telephone number of the district representative from whom additional information regarding the annexation can be obtained,

10. The date by which written protests are to have been received by the secretary of the district.

SEC. 25. Section 38 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 38. If the board deems the annexation or exclusion of all or part of the land for the best interest of the district and if protests are not received from more than 50 percent in number of the owners of the land to be annexed or excluded, the board shall by resolution annex or exclude all or part of the land described in the petition and shall declare the district boundaries as changed.

SEC. 26. Section 39 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 39. If a majority of the owners of lands within the territory proposed to be annexed or excluded protest, in writing, such annexation or exclusion to the board, the board shall (1) call, an election within the area proposed to be annexed or excluded to decide whether the proposed annexation or exclusion shall occur, or (2) terminate the annexation or exclusion proceedings.

SEC. 27. Section 40 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 40. Upon determining that an election shall be called, the board shall adopt a resolution calling such election, which resolution shall describe the boundaries of the land to be annexed or excluded, the date of the election, whether the election shall be held at the polls or by mailed ballot, and if at the polls the hours which the polls shall be kept open, which need not exceed seven consecutive hours, the polling place, and shall state the proposition:

"Shall the territory described in the resolution adopted by the board of directors on _____, 19____, be (annexed to) (excluded from) the Fresno Metropolitan Flood Control District?"

Notice of election shall be given by publishing the resolution at least once a week for two consecutive weeks in a newspaper of general circulation, printed and circulated within the district, in which case no other notice of election need be given, or notice may be given as otherwise provided by law.

SEC. 28. Section 43 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 43. Exclusion of territory pursuant to board resolution, whether or not an election was held, shall not become effective until all debts and obligations existing pursuant to this act, including loans from the general fund of the district, have been fully paid. However, subsequent to the adoption of such resolution of exclusion, the territory shall not be subjected to any further debts or obligations pursuant to this act.

SEC. 29. Section 46 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is repealed.

SEC. 30. Section 46 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 46. (a) The board, by resolution thereof, adopted from time to time, may establish flood control zones within the district, setting forth in such resolutions descriptions of the zones by metes and bounds and entitling the zones by zone number, and institute zone projects for the specific benefit of such zones.

Proceedings for the establishment of such zones may be conducted concurrently with and as part of proceedings for the institution of projects relating to such zones, which proceedings shall be taken and had in the manner prescribed in subdivision (b) of this section.

(b) The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement authorized by this act and of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of the project to be borne by the particular zone and, in the case of participating zones, the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of the project. Notice of such hearing shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation in such zone or each of said participating zones, if there be such a newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to said hearing in five public places designated by the board, in such zone or in each of said participating zones. The notice must designate a public place in such zone or in each of said participating zones where a copy or copies of the map or maps of said joint project may be seen by any interested person; the map shall be

posted in each of said public places so designated in said notice at least two weeks prior to the hearing.

At the time and place fixed for the hearing, or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing the board may abandon the proposed project or proceed with the same, unless, prior to the conclusion of said hearing, a written protest against the proposed project signed by a holder or holders of title to the real property, or assessable rights therein, or evidence of title thereto, representing more than a majority of the owners of property within such zone or within any of the participating zones for which said project was initiated, be filed with the board and not withdrawn in which event said proceedings shall be terminated and no new proceeding contemplating projects of the same zone or zones shall be commenced within a period of six months following the date of such termination.

In all matters in this section referred to, the last equalized assessment roll of the County of Fresno next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein.

Executors, administrators, trustees, and guardians may sign the protest provided for in this act on behalf of the estate represented by them when such signature is supported by written authorization to so represent the named holder of title.

Where real property is owned in common or jointly, the signed written protest of any joint holder of title shall constitute a protest of an owner of land; however, an owner may in a signed writing designate a representative to file a written protest on behalf of the owner.

The protest of any public or quasi-public corporation, private corporation or unincorporated association, may be signed by any person authorized by the board of directors or trustees or other managing body thereof, which authorization shall be in writing; and a proxy executed by an officer or officers thereof, attested by its seal, shall constitute sufficient evidence of such authority, and shall be filed with the board.

Where the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless such real property is assessed in the name of the vendor, in which event the vendor shall be entitled to so do.

The board shall likewise be entitled to inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. And, unless satisfactory evidence is furnished, the right to sign the protest may be denied.

(c) The board may levy assessments, benefit assessments, or taxes, as provided herein, or incur bonded indebtedness to pay the cost of any work or improvement or the operating, maintaining, repairing

or extending any work or improvement within such zone or zones.

(d) The procedure for authorizing bonds shall be as follows:

(1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any zones, the board may by resolution determine and declare the respective amounts of bonds necessary to be issued in each zone in order to raise the amount of money necessary for each work or improvement and the denomination and the maximum rate of interest of the bonds. The board shall cause a copy of the resolution, duly certified by the secretary, to be filed for record in the office of the Recorder of Fresno County within five days after its issuance. From and after the filing of the copy of the resolution the board shall be deemed vested with the authority to proceed with the bond election.

(2) After the filing for record of the resolution specified in (1) of this subdivision the board may call a special bond election in the zone or participating zones at which shall be submitted to the qualified electors of the zone or participating zones the question whether or not bonds shall be issued in the amount or amounts determined in the resolution and for the purpose or purposes therein stated. The bonds and the interest thereon shall be paid from revenue derived from annual assessments, benefit assessments, or assessment taxes levied as provided in this act.

(3) The board shall call such special bond election by resolution and submit to the qualified electors of the zone or participating zones the proposition of incurring a bonded debt in the zone or participating zones in the amount and for the purposes stated in said resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of the resolution specified in paragraph (1) of this subdivision, and on file for particulars; and said resolution shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed the maximum rate permitted by law. For the purposes of said election, said board shall provide in said resolution for such election by mailed ballot or shall in said resolution establish special bond election precincts within the boundaries of each zone and participating zone and may form election precincts by consolidating the precincts established for general elections in said district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge and one clerk for each of such special bond election precincts.

The board shall cause a map or maps to be prepared covering a

general description of the work to be done, which said map shall show the location of the proposed works and improvements and shall cause the map to be posted in a prominent place in the county courthouse for public inspection for at least 30 days before the date fixed for such election.

The resolution calling for such special bond election shall, prior to the date set for such election, be published in a newspaper of general circulation circulated in each zone and participating zone affected for six consecutive times, if published in a daily newspaper of general circulation, or two times, if published in a weekly newspaper of general circulation. The last publication of such resolution must be at least 14 days before said election, and if there be no such newspaper, then such resolution shall be posted in five public places, designated by the board, in each zone and participating zone for at least 30 days before the date fixed for such election. No other notice of such election need be given nor polling place cards be issued.

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by said election. Where a project affects a single zone only, if at such election a majority of the votes cast in said zone on the proposition of incurring a bonded indebtedness are in favor thereof, then bonds for such zone for the amount stated in such proceedings shall be issued and sold as in this act provided. Where the incurring of bonded indebtedness by participating zones is to be determined at such election, no bonds for any of such participating zones shall be issued or sold unless a majority of the votes cast on the proposition in each such participating zone are in favor of incurring the bonded indebtedness to be undertaken by such zone.

(e) The board shall, subject to the provisions of this act, prescribe by resolution the form of the bonds, which must include a designation of the zone or participating zone affected, and of the interest coupons attached thereto. The bonds shall be payable, annually or semiannually at the discretion of the board, each and every year on a day and date, and at a place, to be fixed by the board and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of the indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance for the earliest maturity of each issue or series of bonds. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series.

The bonds shall be issued in such denomination as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars ($100), nor of a greater denomination than ten

thousand dollars ($10,000), and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of the maximum rate allowed by law, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the secretary of said district, and the seal of said district shall be affixed thereto by said secretary. Either or both of such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said secretary by his printed, engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser, such bonds and coupons, and signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officers had remained in office until the delivery of the bonds.

(f) The board may issue and sell the bonds of any such zones authorized as hereinbefore provided above or below par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Fresno to the credit of the district and the respective participating zones thereof, for the use and purposes of the zone or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said county treasurer, and the respective zone funds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for such special bond election as aforesaid, subject to the provisions in this act contained. Payments from the zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Fresno.

(g) Any bonds issued under the provisions of this act, and the interest thereon, shall be paid by revenue derived from an annual tax consisting of a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon.

(h) The board shall levy an assessment tax each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general levy. Such assessment taxes shall be levied and collected in the respective zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury of Fresno County to the credit of the zone of issuance, and to be used for the payment of the principal and interest on said bonds and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of said Fresno County in the manner provided by law for the payment of principal and interest on bonds of the county.

(i) The provisions of law of this state, prescribing the time and manner of levying, assessing, equalizing and collecting county

property taxes, including the sale of property for delinquency and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof.

(j) The bonds of the district issued for any zone thereof pursuant to this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities in the State of California, such money or funds may be invested in the bonds of the district, issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of the district may be so used.

This section of this act is intended to be and shall be considered the latest enactment with respect to the matters herein contained and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed.

(k) All bonds issued by the district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a legal government within the meaning of Section 26 of Article XIII of the Constitution of this state.

(*l*) The repeal or amendment of this act shall not in any way affect or release any of the property in said district or any zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

(m) Notwithstanding any provisions of this act to the contrary, in the event the proceeds from the sale of bonds of any zone are invested temporarily in United States bonds, notes, or certificates of indebtedness, or in other legal investments pending the expenditure of the funds for the purpose or purposes for which the indebtedness was incurred, any revenue or interest received or accruing therefrom may be used to pay the annual or semiannual installments of principal or interest on the bonds as the same becomes due.

SEC. 31. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 662

An act to amend Sections 500, 502, 503, 5151, 5222, 5510, 5513, 6310, 6338, 7151, 7222, 7235, 7312, 7510, 7513, 8014, 8016, 8310, 8322, 8338, 8510, 9246, 9413, 9510, and 10014 of, to add Section 5342 to, and to repeal Sections 10006 and 10011 of, the Corporations Code, relating to corporations.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 500 of the Corporations Code is amended to read:

500. Neither a corporation nor any of its subsidiaries shall make any distribution to the corporation's shareholders (Section 166) unless:

(a) The amount of the retained earnings of the corporation immediately prior thereto equals or exceeds the amount of the proposed distribution; or

(b) Immediately after giving effect thereto:

(1) The sum of the assets of the corporation (exclusive of goodwill, capitalized research and development expenses and deferred charges) would be at least equal to 1¼ times its liabilities (not including deferred taxes, deferred income and other deferred credits); and

(2) The current assets of the corporation would be at least equal to its current liabilities or, if the average of the earnings of the corporation before taxes on income and before interest expense for the two preceding fiscal years was less than the average of the interest expense of the corporation for such fiscal years, at least equal to 1¼ times its current liabilities; provided, however, that in determining the amount of the assets of the corporation profits derived from an exchange of assets shall not be included unless the assets received are currently realizable in cash; and provided, further, that for the purpose of this subdivision "current assets" may include net amounts which the board has determined in good faith may reasonably be expected to be received from customers during the 12-month period used in calculating current liabilities pursuant to existing contractual relationships obligating such customers to make fixed or periodic payments during the term of the contract or, in the case of public utilities, pursuant to service connections with customers, after in each case giving effect to future costs not then included in current liabilities but reasonably expected to be incurred by the corporation in performing such contracts or providing service to utility customers. The amount of any distribution payable in property shall, for the purpose of this chapter, be determined on the basis of the value at which such property is carried on the

corporation's financial statements in accordance with generally accepted accounting principles. Paragraph (2) of subdivision (b) is not applicable to a corporation which does not classify its assets into current and fixed under generally accepted accounting principles. For the purpose of applying this section to a distribution by a corporation of cash or property in payment in whole or in part of an obligation incurred by the corporation in connection with the purchase of its shares, there shall be added to retained earnings any amount that had been deducted therefrom at the time the obligation was incurred, but not in excess of the principal of the obligation which remains unpaid immediately prior to the distribution and there shall be deducted from liabilities any amount which had been added thereto at the time the obligation was incurred, but not in excess of the principal of the obligation which will remain unpaid after the distribution.

SEC. 2. Section 502 of the Corporations Code is amended to read:

502. Neither a corporation nor any of its subsidiaries shall make any distribution to the corporation's shareholders (Section 166) on any shares of its stock of any class or series which are junior to outstanding shares of any other class or series with respect to distribution of assets on liquidation if, after giving effect thereto, the excess of its assets (exclusive of goodwill, capitalized research and development expenses and deferred charges) over its liabilities (not including deferred taxes, deferred income and other deferred credits) would be less than the liquidation preference of all shares having a preference on liquidation over the class or series to which the distribution is made; provided, however, that for the purpose of applying this section to a distribution by a corporation of cash or property in payment in whole or in part of an obligation incurred by the corporation in connection with the purchase of its shares, there shall be deducted from liabilities any amount which had been added thereto at the time the obligation was incurred, but not in excess of the principal of the obligation which will remain unpaid after the distribution.

SEC. 3. Section 503 of the Corporations Code is amended to read:

503. Neither a corporation nor any of its subsidiaries shall make any distribution to the corporation's shareholders (Section 166) on any shares of its stock of any class or series which are junior to outstanding shares of any other class or series with respect to payment of dividends unless the amount of the retained earnings of the corporation immediately prior thereto equals or exceeds the amount of the proposed distribution plus the aggregate amount of the cumulative dividends in arrears on all shares having a preference with respect to payment of dividends over the class or series to which the distribution is made; provided, however, that for the purpose of applying this section to a distribution by a corporation of cash or property in payment in whole or in part of an obligation incurred by the corporation in connection with the purchase of its shares, there shall be added to retained earnings any amount that had been

deducted therefrom at the time the obligation was incurred, but not in excess of the principal of the obligation which remains unpaid immediately prior to the distribution.

SEC. 4. Section 5151 of the Corporations Code is amended to read:

5151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 5151. The number or minimum number of directors may be one or more.

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 5132.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment and authority of committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments and admission fees.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 5341.

(e) The bylaws may require, for any or all corporate actions (except as provided in paragraphs (1) and (2) of subdivision (a) of Section 5222, subdivision (c) of Section 5616, and Section 6610), the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members, or the vote of a larger proportion of, or all of, the directors, than is otherwise required by this part. Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

SEC. 5. Section 5222 of the Corporations Code is amended to read:

5222. (a) Subject to subdivisions (b) and (f) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033).

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(3) In a corporation with no members, such removal is approved by a majority of the directors then in office.

(b) Except for a corporation having no members pursuant to Section 5310:

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 5616, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 5221 and 5223, a director may not be removed prior to the expiration of such director's term of office.

(e) Where a director removed under this section or Section 5221 or 5223 was chosen by designation pursuant to subdivision (d) of Section 5220, then:

(1) Where a different person may be designated pursuant to governing article or bylaw provision, such new designation shall be made.

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, then:

(1) Unless otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person or persons.

SEC. 6. Section 5342 is added to the Corporations Code, to read:

5342. (a) An amendment of the articles or bylaws which would terminate all memberships or any class of memberships shall meet the requirements of this part and this section.

(b) Before such an amendment is adopted the corporation shall give written notice to members not less than 45 nor more than 90 days prior to any vote by the members on the amendment. The written notice shall describe the effect of the amendment on the corporation and the members.

(c) Any such amendment shall be approved by the members (Section 5034).

(d) The articles or bylaws may impose additional requirements regarding termination of all memberships or any class of memberships.

(e) Upon request of a member the corporation shall provide at its option the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 6330 as soon as reasonably possible to allow the member to communicate with other members regarding the proposed amendment.

(f) Any such amendment shall terminate the rights members have pursuant to this part as members (Section 5056).

(g) The provisions of Section 5341 shall not apply to termination of all memberships or any class of memberships pursuant to an amendment of the articles or bylaws.

SEC. 7. Section 5510 of the Corporations Code is amended to read:

5510. (a) Meetings of members may be held at a place within or without the state that is stated in or fixed in accordance with the bylaws. If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation.

(b) A regular meeting of members shall be held on a date and time, and with the frequency stated in or fixed in accordance with the bylaws, but in any event in each year in which directors are to be elected at that meeting for the purpose of conducting such election, and to transact any other proper business which may be brought before the meeting.

(c) If a corporation with members is required by subdivision (b) to hold a regular meeting and fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation, or after its last regular meeting, or if the corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member or the Attorney General, after notice to the corporation giving it an opportunity to be heard.

(d) The votes represented, either in person or by proxy, at a meeting called or by written ballot ordered pursuant to subdivision

(c), and entitled to be cast on the business to be transacted shall constitute a quorum, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting.

(e) Special meetings of members for any lawful purpose may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for any lawful purpose may be called by 5 percent or more of the members.

SEC. 8. Section 5513 of the Corporations Code is amended to read:

5513. (a) Subject to subdivision (e), and unless prohibited in the articles or bylaws, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 5511, and Section 5514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 5616.

(f) When directors are to be elected by written ballot and the articles or bylaws prescribe a nomination procedure, the procedure may provide for a date for the close of nominations prior to the printing and distributing of the written ballots.

SEC. 9. Section 6310 of the Corporations Code is amended to read:

6310. If any record subject to inspection pursuant to this chapter is not maintained in written form, a request for inspection is not complied with unless and until the corporation at its expense makes such record available in written form. For the purposes of this chapter "written" or "in writing" also includes cathode ray tube and similar electronic communications methods.

SEC. 10. Section 6338 of the Corporations Code is amended to read:

6338. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be used by any person for any purpose not reasonably related to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation.

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation.

(3) Used for any commercial purpose or purpose in competition with the corporation.

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of such violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of the members' names and addresses.

SEC. 11. Section 7151 of the Corporations Code is amended to read:

7151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 7151. The number or minimum number of directors may be one or more.

(b) Once members have been admitted, a bylaw specifying or

changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 7132.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment of committees, composed of directors or nondirectors or both, by the board or any officer and the authority of any such committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments, and admission and transfer fees.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 7341.

(e) The bylaws may require, for any or all corporate actions (except as provided in paragraphs (1) and (2) of subdivision (a) of Section 7222, subdivision (c) of Section 7615, and Section 8610) the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members or the vote of a larger proportion of, or all of, the directors, than is otherwise required by this part. Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

SEC. 12. Section 7222 of the Corporations Code is amended to read:

7222. (a) Subject to subdivisions (b) and (f) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033).

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(3) In a corporation with no members, such removal is approved by a majority of the directors then in office.

(b) Except for a corporation having no members, pursuant to Section 7310:

(1) In a corporation in which the articles or bylaws authorize

members to cumulate their votes pursuant to subdivision (a) of Section 7615, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 7221 and 7223, a director may not be removed prior to the expiration of such director's term of office.

(e) Where a director removed under this section or Section 7221 or 7223 was chosen by designation pursuant to subdivision (d) of Section 7220, then:

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, such new designation shall be made.

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, then:

(1) Unless otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person or persons.

SEC. 13. Section 7235 of the Corporations Code is amended to read:

7235. (a) Unless prohibited by the articles or bylaws, a corporation may loan money or property to, or guarantee the obligation of, any director or officer of the corporation or of its parent, affiliate or subsidiary, provided:

(1) The board determines the loan or guaranty may reasonably be expected to benefit the corporation.

(2) Prior to consummating the transaction or any part thereof, the loan or guaranty is either:

(A) Approved by the members (Section 5034), without counting the vote of the director or officer, if a member, or

(B) Approved by the vote of a majority of the directors then in

office, without counting the vote of the director who is to receive the loan or the benefit of the guaranty.

(b) Notwithstanding subdivision (a), a corporation may advance money to a director or officer of the corporation or of its parent, affiliate or subsidiary, for any expenses reasonably anticipated to be incurred in the performance of the duties of the director or officer of the corporation or of its parent, affiliate or subsidiary, for any expenses reasonably anticipated to be incurred in the performance of the duties of the director or officer, provided that in the absence of such an advance the director or officer would be entitled to be reimbursed for these expenses by the corporation, its parent, affiliate, or subsidiary.

(c) The provisions of subdivisions (a) and (b) do not apply to credit unions, or to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value, or to loans permitted under any statute regulating any special class of corporations.

SEC. 14. Section 7312 of the Corporations Code is amended to read:

7312. No person may hold more than one membership, and no fractional memberships may be held, provided, however, that:

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws subject to Section 7612.

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold a membership in one or more classes.

(c) Any branch, division, or office of any person, which is not formed primarily to be a member, may hold a separate membership.

(d) In the case of membership in an owners association, (as defined in Section 11003.1 of the Business and Professions Code, and created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions Code) the articles or bylaws may permit a person who owns an interest, or who has a right of exclusive occupancy, in more than one lot, parcel, area, apartment, or unit to hold a separate membership in the owners association for each such lot, parcel, area, apartment, or unit.

(e) In the case of membership in a mutual water company, as defined in Section 330.24 of the Civil Code, the articles or bylaws may permit a person entitled to membership by reason of the ownership, lease, or right of occupancy of more than one lot, parcel, or other service unit to hold a separate membership in the mutual water company for each such lot, parcel, or other service unit.

SEC. 15. Section 7510 of the Corporations Code is amended to read:

7510. (a) Meetings of members may be held at a place within or

without the state that is stated in or fixed in accordance with the bylaws. If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation.

(b) A regular meeting of members shall be held on a date and time, and with the frequency stated in or fixed in accordance with the bylaws, but in any event in each year in which directors are to be elected at that meeting for the purpose of conducting such election, and to transact any other proper business which may be brought before the meeting.

(c) If a corporation with members is required by subdivision (b) to hold a regular meeting and fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation or after its last regular meeting, or if the corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member, after notice to the corporation giving it an opportunity to be heard.

(d) The votes represented, either in person or by proxy, at a meeting called or by written ballot ordered pursuant to subdivision (c) and entitled to be cast on the business to be transacted shall constitute a quorum, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting.

(e) Special meetings of members for any lawful purpose may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for any lawful purpose may be called by 5 percent or more of the members.

SEC. 16. Section 7513 of the Corporations Code is amended to read:

7513. (a) Subject to subdivision (e), and unless prohibited in the articles or bylaws, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes

cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Section 7514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 7615.

(f) When directors are to be elected by written ballot and the articles or bylaws prescribe a nomination procedure, the procedure may provide for a date for the close of nominations prior to the printing and distributing of the written ballots.

SEC. 17. Section 8014 of the Corporations Code is amended to read:

8014. After approval of a merger by the board and any approval by the members (Section 5034) required by Section 8012, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, identifying any other person or persons whose approval is required, and that the principal terms of the agreement in the form attached were duly approved by the required vote of the members and, if applicable, any other person or persons. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 5008 and subject to the provisions of Section 8018) and the several parties thereto shall be one corporation. The agreement shall not be filed, however, until there has been filed by or on behalf of each corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by such law have been paid or secured. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

SEC. 18. Section 8016 of the Corporations Code is amended to read:

8016. The board may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other constituent corporations, without further approval by the members (Section 5034) or other persons entitled to approve the merger at

any time before the merger is effective.

SEC. 19. Section 8310 of the Corporations Code is amended to read:

8310. If any record subject to inspection pursuant to this chapter is not maintained in written form, a request for inspection is not complied with unless and until the corporation at its expense makes such record available in written form. For the purposes of this chapter "written" or "in writing" also includes cathode ray tube and similar electronic communications methods.

SEC. 20. Section 8322 of the Corporations Code is amended to read:

8322. (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members and directors a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place. If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report. A corporation which does not issue an annual report to all members, pursuant to subdivision (c) of Section 8321, shall satisfy this section by mailing or delivering to its members the required statement within 120 days after the close of the corporation's fiscal year.

(b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:

(1) Any director or officer of the corporation, or its parent or subsidiary.

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary.

For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2) of this subdivision.

(c) Transactions approved by the members of a corporation (Section 5034), under subdivision (a) of Section 7233, are not covered transactions. For the purpose of subdivision (b), a mere common directorship is not a material financial interest.

(d) The statement required by subdivision (a) shall describe briefly:

(1) Any covered transaction (excluding compensation of officers and directors) during the previous fiscal year involving more than fifty thousand dollars ($50,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than fifty thousand dollars ($50,000).

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner,

only the interest of the partnership need be stated.

(e) The statement required by subdivision (a) shall describe briefly the amount and circumstances of any loans, guaranties, indemnifications or advances aggregating more than ten thousand dollars ($10,000) paid or made during the fiscal year to any officer or director of the corporation pursuant to Section 7237; provided that no such report need be made in the case of a loan, guaranty, or indemnification approved by the members (Section 5034) or a loan or guaranty not subject to the provisions of subdivision (a) of Section 7235.

SEC. 21. Section 8338 of the Corporations Code is amended to read:

8338. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be used by any person for any purpose not reasonably related to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation.

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation.

(3) Used for any commercial purpose or purpose in competition with the corporation.

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of the members' names and addresses.

SEC. 22. Section 8510 of the Corporations Code is amended to read:

8510. (a) A complaint for involuntary dissolution of a corporation on any one or more of the grounds specified in subdivision (b) may be filed in the superior court of the proper county by any of the following persons:

(1) One-half or more of the directors in office.

(2) A person or persons holding or authorized in writing by

persons holding not less than 33⅓ percent of the voting power exclusive of memberships held by persons who have personally participated in any of the transactions enumerated in paragraph (5) of subdivision (b).

(3) Any member if the ground for dissolution is that the period for which the corporation was formed has terminated without extension thereof.

(4) Any other person expressly authorized to do so in the articles.

(5) In the case of a corporation holding assets in charitable trust, the Attorney General.

(6) The head organization under whose authority the corporation was created, where the corporation's articles include the provision authorized by subdivision (a), paragraph (4), clause (i), of Section 7132.

(b) The grounds for involuntary dissolution are that:

(1) The corporation has abandoned its activity for more than one year.

(2) The corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property will be impaired or lost or its activities impaired and the members are so divided into factions that they cannot elect a board consisting of an uneven number.

(3) There is internal dissension and two or more factions of members in the corporation are so deadlocked that its activities can no longer be conducted with advantage.

(4) When during any four-year period or when all voting power has been exercised at two consecutive meetings or in two written ballots for the election of directors, whichever period is shorter, the members have failed to elect successors to directors whose terms have expired or would have expired upon election of their successors.

(5) Those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or persistent unfairness toward any member or the corporation's property is being misapplied or wasted by its directors or officers.

(6) In the case of any corporation with 35 or fewer members, liquidation is reasonably necessary for the protection of the rights or interests of a complaining member or members.

(7) The period for which the corporation was formed has terminated without extension of such period.

(8) The corporation is required to dissolve under the terms of any article provision adopted pursuant to subdivision (a), paragraph (4), clause (i) of Section 7132.

(c) At any time prior to the trial of the action any member or creditor may intervene therein.

(d) This section does not apply to any corporation subject to:

(1) The Public Utilities Act (Part 1 (commencing with Section

201) of Division 1 of the Public Utilities Code) unless an order is obtained from the Public Utilities Commission authorizing the corporation either (a) to dispose of its assets as provided in Section 851 of the Public Utilities Code or (b) to dissolve.

(2) The provisions of Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 of the Insurance Code when the application authorized by Section 1011 of the Insurance Code has been filed by the Insurance Commissioner unless the consent of the Insurance Commissioner has been obtained.

(3) The California Credit Union Law (Chapter 1 (commencing with Section 14000) of Division 5 of the Financial Code).

(e) In the case of a corporation holding assets in charitable trust at the time of the filing of the complaint pursuant to subdivision (a), a copy thereof shall be served on the Attorney General who may intervene.

SEC. 23. Section 9246 of the Corporations Code is amended to read:

9246. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such precedessor corporation; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 9243, or an action brought by the Attorney General pursuant to Section 9230) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 9243, or brought by the Attorney General pursuant to Section 9230, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if the person acted in good faith, in a manner in which such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstances. No idemnification shall be made under this subdivision:

(1) In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in either subdivision (b) or (c) by:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval of the members (Section 5034), with the persons to be indemnified not being entitled to vote thereon; or

(3) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such

proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section.

(g) No provision made by a corporation to indemnify its or its susidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this section. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears that:

(1) It would be inconsistent with a provision of the articles, bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(2) It would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section; provided, however, that a corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of Section 9243.

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207.

SEC. 24. Section 9413 of the Corporations Code is amended to read:

9413. (a) Any action which may be taken at any regular or special meeting of members may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the requirements of subdivision (c) are satisfied.

(b) All solicitations of ballots shall indicate the time by which the ballot must be returned to be counted.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of ballots cast on or before the time the ballot must be returned to be counted equals or exceeds the quorum

required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of ballots cast.

(d) A written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 9415.

SEC. 25. Section 9510 of the Corporations Code is amended to read:

9510. (a) Each corporation shall keep:

(1) Adequate and correct books and records of account.

(2) Minutes of the proceedings of its members, board and committees of the board.

(3) A record of its members giving their names and addresses and the class of membership held by each.

(b) Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form. For purposes of this chapter "written" or "in writing" also includes cathode ray tube and similar electronic communications methods.

SEC. 26. Section 10006 of the Corporation Code is repealed.

SEC. 27. Section 10011 of the Corporation Code is repealed.

SEC. 28. Section 10014 of the Corporations Code is amended to read:

10014. The declaration shall be submitted to the Secretary of State for filing in his office. If it conforms to law he shall file it and endorse the date of filing thereon. Thereupon the corporation shall cease to carry on business, except for the purpose of adjusting and winding up its affairs.

CHAPTER 663

An act to amend Sections 17200.8, 17207, 17209, 17209.1, 17209.2, 17209.3, 17213.1, 17213.5, and 17415 of, to add Sections 17005.6, 17209.4, and 17411.1 to, and to repeal and add Section 17611 to, the Financial Code, relating to escrow agents.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 17005.6 of the Financial Code is added, to read:

17005.6. Except as provided for in Section 17004, "escrow agent" as used in this division includes joint control agents.

SEC. 2. Section 17200.8 of the Financial Code is amended to read:

17200.8. Within the organization of each escrow agent corporation, either as an owner, officer, or employee, there shall be one or more persons possessing a minimum of five years of responsible escrow or joint control experience to be stationed at the main office of the corporation and one or more persons possessing a minimum of four years of responsible escrow or joint control experience stationed at each branch. At least one such qualified person shall be stationed on duty at each business location licensed by this division during the time the location is open for business. A person who has satisfied educational requirements established by the commissioner may substitute education for up to one year of experience.

SEC. 3. Section 17207 of the Financial Code is amended to read:

17207. The commissioner shall charge and collect the following fees and assessments:

(a) For filing an application for an escrow agent's license, six hundred twenty-five dollars ($625) for the first office or location and four hundred twenty-five dollars ($425) for each additional office or location.

(b) For filing an application for a duplicate of an escrow agent's license lost, stolen, destroyed, or for replacement, upon a satisfactory showing of such loss, theft, destruction, or surrender of certificate for replacement, two dollars ($2).

(c) For investigation services in connection with each application, one hundred dollars ($100), and for investigation services in connection with each additional office application, one hundred dollars ($100).

(d) For holding a hearing in connection with the application, as set forth under Section 17209.2, the actual costs experienced in each particular instance.

(e) (1) Each escrow agent shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner for the ensuing year, and of any deficit actually incurred or anticipated in the administration of this division in the year in which such assessment is made. The total assessment for each year shall not exceed the amount of the first assessment following the effective date of this subdivision adjusted for changes in the cost of living. As used in this subdivision "cost of living" means the Consumer Price Index for the United States as reported by the United States Department of Labor or a successor agency of the United States government. The pro rata share shall be the proportion which a licensee's gross income from escrow operations bears to the aggregate gross income from escrow operations of all licensees as compiled by the commissioner. The pro rata share shall not include the costs of any examinations provided for in Section 17405.1, unless they cannot be collected from the company examined.

(2) On or before the 30th day of May in each year, the

commissioner shall notify each escrow agent by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(3) In the levying and collection of the assessment, an escrow agent shall not be assessed for nor be permitted to pay less than two hundred fifty dollars ($250) per year, per location.

(4) If an escrow agent fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to such company. If, after such an order is made, a request for a hearing is filed in writing and a hearing is not held within 60 days therefter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a company shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that neither the revocation, suspension, or surrender of a certificate shall affect the powers of the commissioner as provided in this division.

(f) Fifty dollars ($50) for investigation services in connection with each application for qualification of any person under Section 17200.8, other than investigation services under subdivision (c) of this section.

SEC. 4. Section 17209 of the Financial Code is amended to read:

17209. An application for a license as an escrow agent shall be signed and verified by an authorized officer of the applicant, and such application shall be accompanied by a certified copy of the articles of incorporation and a copy of the bylaws of the proposed licensee. The application shall set forth:

(a) The names and addresses of the incorporators, directors, and officers.

(b) An itemized statement of the estimated receipts and expenditures of the proposed first year of operations.

(c) An audited financial statement showing compliance with Section 17210.

(d) The name and address of the person, or persons, meeting the requirements of Section 17200.8, and a statement supporting such persons' qualifications.

(e) The type of business for which the license is requested.

(f) Any other matters the commissioner may require.

SEC. 5. Section 17209.1 of the Financial Code is amended to read:

17209.1. Upon the receipt of a proper and complete application for license, and all required fees, the commissioner shall immediately examine and investigate all facts connected with the proposal, including but not limited to its stockholders, directors, officers and managers, proposed location, and estimated receipts and expenditures.

SEC. 6. Section 17209.2 of the Financial Code is amended to read:

17209.2. The commissioner may or may not require an applicant to submit to an appropriate hearing. If a hearing is held the commissioner shall, on or before 10 days prior to the hearing, mail notice thereof to the applicant. At such hearing any interested person may show cause either in favor of, or opposed to, the application.

SEC. 7. Section 17209.3 of the Financial Code is amended to read:

17209.3. The commissioner may refuse to issue any license being applied for, and shall refuse to issue any license being applied for if upon his examination and investigation, and after appropriate hearing, he finds any of the following:

(a) That the corporation is to be formed for any business other than legitimate escrow agent services, or proposes to use a name that is misleading or in conflict with the name of an existing licensee.

(b) That any incorporator, officer, or director of the applicant has, within the last 10 years, been (1) convicted of or pleaded nolo contendere to a crime, or (2) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.

(c) That there is no officer or manager possessing a minimum of five years of responsible escrow or joint control experience stationed or to be stationed at the main office of the corporation and that there is no officer, manager or employee possessing a minimum of four years of responsible escrow or joint control experience stationed or to be stationed at each branch.

(d) That the proposed licensee's financial program is unsound.

(e) A false statement of a material fact has been made in the application for license.

(f) The applicant or any officer, director, or incorporator of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

SEC. 8. Section 17209.4 of the Financial Code is added, to read:

17209.4. The license shall state whether the licensee is licensed as an escrow agent or joint control agent.

SEC. 9. Section 17213.1 of the Financial Code is amended to read:

17213.1. (a) An escrow agent's business shall not be removed from the premises or address shown on the license without the prior approval of the commissioner, and notice of any intended change shall be transmitted to the commissioner not less than 30 days prior to the date of the intended change of location; provided, however, that the commissioner may waive the 30-day notice requirement when the move is occasioned by fire, emergency, or other catastrophe. The commissioner's approval shall be granted or denied within 30 days from the date of the commissioner's receipt of the licensee's request containing such information as the commissioner may require.

(b) When a licensed business is to be moved a distance of five or

more miles, and a change in ownership results from a transfer of 50 percent or more of the shares of the corporation, a licensee shall file an application for authorization to change location on a form furnished by the commissioner and the commissioner shall: (1) treat the matter as an application for a new license by invoking the provisions of Sections 17209, 17209.1, 17209.2, and 17209.3, and (2) require the payment of such fees as are applicable under Section 17207. The provisions of this subdivision shall not apply when the actual or contemplated change of ownership is to the transferor's ancestors, descendants, or spouse, or any custodian or trustee for the account of the transferor or the transferor's ancestors, descendants, or spouse.

SEC. 10. Section 17213.5 of the Financial Code is amended to read:

17213.5. Licensees of this division shall be entitled to establish additional business office locations by compliance with all of the following:

(a) Filing with the commissioner notice of the intended address, or addresses.

(b) Payment of the fees prescribed in Section 17207.

(c) Filing with the commissioner additional bond or bonds as prescribed in Sections 17202, 17203, 17203.1, 17203.2, and 17204 appropriately for each additional office location or, in lieu thereof, the applicant shall cause the surety under his existing bond or bonds to file with the commissioner a written amendment signifying that coverage is appropriately extended.

(d) Filing with the commissioner financial statements prepared in accordance with generally accepted accounting principles. If the licensee's fiscal year end is more than six months before the date of filing the application, the commissioner may require current financial statements which shall not be more than 60 days old. The interim financial statements may be unaudited.

(e) Filing with the commissioner the names and addresses of the licensee's owners and employees to be stationed at the new location, showing that the operation of the additional office, or offices, will be under the complete management and control of the parent licensee.

(f) Filing with the commissioner statements offsetting and meeting each of the conditions set forth in Section 17209.3.

With respect to all applications for authorization to establish additional locations, the commissioner shall promptly commence his investigation and review of the application.

The commissioner shall within 30 days from the receipt by the commissioner of a separate and complete application, license the designated premises as a branch of the parent licensee, unless the commissioner finds (1) that the applicant has failed to comply with all of the requirements of this section, (2) that the applicant then fails to meet any of the standards applicable for the issuance of a license pursuant to Section 17209.3, or (3) that a hearing shall be held to determine whether the application should be granted or denied.

SEC. 11. Section 17411.1 of the Financial Code is added, to read:

17411.1. "Trust funds" or "escrow accounts" as used in Sections 17409, 17410, and 17411 shall include all funds required to be held by an escrow agent pursuant to a federal or state law, or requirement of a governmental agency.

SEC. 12. Section 17415 of the Financial Code is amended to read:

17415. (a) If the commissioner, as a result of any examination or from any report made to him, shall find that any person subject to this division is in an insolvent condition, is conducting escrow business in such an unsafe or injurious manner as to render further operations hazardous to the public or to customers, has permitted its tangible net worth to be lower than the minimum required by law, has failed to maintain its liquid assets in excess of current liabilities as set forth in Section 17210, or has failed to comply with the bonding requirements of Chapter 2 (commencing with Section 17200) of this division, the commissioner may, by an order addressed to and served by registered or certified mail or by personal service on such person and on any other person having in his possession or control any escrowed funds, trust funds or other property deposited in escrow with said person, direct discontinuance of the disbursement of trust funds by the parties or any of them, the receipt of trust funds, the delivery or recording of documents received in escrow, or other business operations. No person having in his possession any of these funds or documents shall be liable for failure to comply with the order unless he or she has received written notice of the order. Subject to subdivision (b), the order shall remain in effect until set aside by the commissioner in whole or in part, the person has been adjudged bankrupt, or pursuant to Chapter 6 (commencing with Section 17621) of this division the commissioner has assumed possession of the escrow agent.

(b) Within 10 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

SEC. 13. Section 17611 of the Financial Code is repealed.

SEC. 14. Section 17611 is added to the Financial Code, to read:

17611. (a) The commissioner may make such investigations as he or she deems necessary to determine whether any person has violated or is about to violate any provision of this division or any rule or order hereunder or to aid in the enforcement of this division. The commissioner may publish information concerning any violation of this division or any rule or order hereunder.

(b) In making any investigation authorized by subdivision (a), the commissioner may, for a reasonable time not exceeding 30 days, take possession of the books, records, accounts, and other papers pertaining to the business of any escrow agent or joint control agent and place a keeper in exclusive charge of them in the place where

they are usually kept. During such possession no person shall remove or attempt to remove any of the books, records, accounts, or other papers except pursuant to a court order or with the consent of the commissioner. However, the directors, officers, partners, and employees of the escrow agent or joint control agent may examine the books, records, accounts, or other papers and the employees shall be permitted to make entries therein reflecting current transactions.

(c) For the purpose of any investigation or proceeding under this division, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(d) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application of the commissioner, may issue to the person an order requiring him or her to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(e) No person is excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner, or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required by the commissioner may tend to incriminate the person or subject him or her to a penalty or forfeiture. However, no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after validly claiming his or her privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testimony is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

CHAPTER 664

An act to amend Section 9889.55 of the Business and Professions Code, to amend Sections 43654 and 43659 of the Health and Safety Code, to amend Section 6285 of the Revenue and Taxation Code, and to amend Sections 4000.1 4602.1 and 22851.10 of, and to repeal and add Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 of, the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 9889.55 of the Business and Professions Code is amended to read:

9889.55. (a) The provisions of this chapter shall take effect in accordance with the following schedule:

(1) The inspection program shall be implemented on a trial basis by the department prior to January 1, 1979. A series of trial inspections of motor vehicles conducted by the department, in order to refine inspection standards and procedures adopted under the program, shall be completed by no later than January 1, 1979.

(2) The trial inspections shall be limited to the Counties of Orange, Riverside, and San Bernardino, or any portion of one or more of these counties as the department may specify, and to one or more classes of vehicles subject to the provisions of this chapter, for example, vehicles owned by governmental entities. The trial inspection program may include provision for voluntary maintenance or repair and reinspection of vehicles failing to pass initial inspections, undertaken at the owners' expense, and for mandatory maintenance or repair and reinspection of those vehicles, undertaken at the department's expense.

(3) Notwithstanding other provisions of this section and of Section 4602.1 of the Vehicle Code, the trial inspections shall not be enforced through renewal of registration of motor vehicles. The department may issue stickers which shall be affixed to vehicles in accordance with the rules and regulations of the department or the department may, in conjunction with other affected state agencies, prescribe by regulation other means of enforcement.

(b) Any motor vehicle subject to the provisions of this chapter shall be inspected by the department upon each transfer of registration, and in the case of a motor vehicle previously registered outside this state, upon registration, subsequent to January 1, 1979.

(c) Upon authorization by statute, the state board, subsequent to January 1, 1981, shall inspect motor vehicles subject to this chapter upon each renewal of registration.

(d) Notwithstanding any other provision of this section, whenever registration of a motor vehicle previously registered

outside this state, transfer of registration, or initial or renewed registration of a motor vehicle subject to the provisions of this chapter occurs within 60 days of an inspection conducted pursuant to subdivision (b) or (c) of this section, the inspection otherwise required upon the transfer or registration need not be conducted. The department may extend the 60-day period during which a motor vehicle need not be reinspected if the State Air Resources Board determines, from test data, that the period will not result in a significant increase in vehicular emissions.

(e) Any motor vehicles subject to the provisions of this chapter owned by a governmental entity or public utility and not required by law to have its registration renewed, shall be inspected by the department annually in accordance with a schedule established by the department to correspond with the schedule for inspections upon renewal of registration of all other motor vehicles pursuant to this chapter.

(f) The consumer handbook prepared by the department pursuant to Section 9889.53 shall be distributed by the Department of Motor Vehicles to every owner of a motor vehicle subject to the provisions of this chapter at the same time the owner is notified of his or her first inspection requirement pursuant to subdivision (b) or (c) of this section.

(g) The orientation or training seminars conducted by the department pursuant to subdivision (b) of Section 9889.52, shall be conducted periodically on an ongoing basis commencing prior to the conducting of the first trial inspections by the department pursuant to subdivision (a) of this section.

SEC. 2. Section 43654 of the Health and Safety Code is amended to read:

43654. (a) Except as otherwise provided in subdivision (b), every 1966 through 1970 light-duty motor vehicle, subject to registration in this state, shall be equipped with a certified device to control its exhaust emission of oxides of nitrogen upon initial registration, upon transfer of ownership and registration, and upon registration of a motor vehicle previously registered outside this state.

(b) Subdivision (a) shall not apply to a 1966 through 1970 light-duty motor vehicle (1) which is registered to, or subject to registration by, an elderly low-income person, (2) which was purchased from a person other than a dealer or a person holding a retail seller's permit, and (3) which is used principally by or for the benefit of the elderly low-income person. However, only one vehicle described above shall be registered to, or subject to registration by, the elderly low-income person at any one time.

(c) For purposes of subdivision (b), the Department of Motor Vehicles may require satisfactory proof (1) of the age of the transferee of the motor vehicle, (2) of the combined adjusted gross income of the household in which the transferee resides, and (3) that the transferor of the motor vehicle is a person other than a dealer or

a person holding a retail seller's permit.

SEC. 3. Section 43659 of the Health and Safety Code is amended to read:

43659. (a) The state board shall annually review the requirement that an exhaust device be installed on every 1955 through 1965 model year light-duty motor vehicle upon initial registration, upon transfer of ownership and registration, or upon registration of a motor vehicle previously registered outside this state, to determine the contribution of that requirement to the maintenance of required ambient air quality standards in those air basins where the requirement is applicable.

(b) In making its determination, the state board shall consider all relevant factors, including, but not limited to, the fact that the requirement is being imposed on a constantly decreasing number of motor vehicles.

(c) Upon a determination by the state board by regulation that the requirement is no longer a significant factor to the maintenance of required ambient air quality standards in any applicable air basin, except as provided in subdivision (d), 1955 through 1965 model year light-duty motor vehicles in that air basin shall no longer be required to be so equipped.

(d) All 1955 through 1965 model year light-duty motor vehicles equipped with an exhaust device pursuant to the requirement prior to the adoption of the regulation by the state board pursuant to subdivision (c) shall continue to be so equipped.

SEC. 4. Section 6285 of the Revenue and Taxation Code is amended to read:

6285. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or of a vessel or an aircraft, when the person selling the property is either the parent, grandparent, child, grandchild, or spouse, or the brother or sister if the sale between that brother or sister is between two minors related by blood or adoption, of the purchaser, and the person selling is not engaged in the business of selling the type of property for which the exemption is claimed.

SEC. 5. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b) or (c) of this section or in subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require, pursuant to this section or regulations of the State Air Resources Board adopted pursuant to Section 43655 of the Health and Safety Code, upon initial registration, upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and upon registration of

a motor vehicle previously registered outside this state which is subject to those provisions of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that the vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or a certificate of noncompliance, as appropriate.

With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, and having a gross vehicle weight of 6,000 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

(b) Subdivision (a) shall not apply to a transfer of ownership and registration when:

(1) The transferor is either the parent, grandparent, child, grandchild, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to such proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(c) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from the provisions of subdivision (a) as it deems necessary, and shall notify the department of that action.

SEC. 6. Section 4602.1 of the Vehicle Code is amended to read:

4602.1. (a) In addition to any other requirements with respect to the registration of motor vehicles, the department shall also require upon initial registration, upon transfer of ownership and registration, of a motor vehicle subject to the provisions of Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code, and upon registration of a motor vehicle previously registered outside this state which is subject to those provisions of the Business and Professions Code, subsequent to the first inspection of the vehicle required by that chapter, that the owner submit a valid certificate of compliance or waiver for the vehicle issued pursuant to Section 9889.56 of that code. In order to satisfy the provisions of this subdivision, the inspection certified shall have been conducted during the 60 days prior to the initial registration, renewal of registration, registration of a motor vehicle

previously registered outside this state, or transfer of registration.

(b) The department shall, prior to the commencement of the inspection program to be conducted by the Department of Consumer Affairs pursuant to subdivision (a) or (c) of Section 9889.55 of the Business and Professions Code, notify any motor vehicle owner subject to the provisions of those sections of all of his or her rights and obligations under those programs and distribute to him or her free of charge the consumer handbook prepared by the Department of Consumer Affairs pursuant to Section 9889.53 of that code.

SEC. 7. Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 of the Vehicle Code is repealed.

SEC. 8. Article 6 (commencing with Section 9800) is added to Chapter 6 of Division 3 of the Vehicle Code, to read:

Article 6. Enforcement of Liens

9800. (a) Payments for any of the following, and any interest, penalties or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Bail for offenses relating to the standing or parking of a vehicle.

(b) Notwithstanding the provisions of subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated under a trip permit beyond its date of expiration, an amount equal to the minimum registration fees or transfer fees, and penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer.

(c) Every lien arising under this section shall expire three years from the date the fee, tax, or bail first became due.

(d) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities are agents of the department for the purposes of collecting fees and taxes which are a lien on commercial vehicles.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the department.

9801. (a) When the registration of a vehicle has expired and has not been renewed as required by this code, the department may collect the amount on the lien of the vehicle plus cost, not to exceed two hundred fifty dollars ($250), by the seizure and sale of the vehicle.

(b) At least 10 days before the seizure, notice of the lien and of the intent to seize and sell the vehicle shall be given by the department to the registered and legal owners, and to any other person known to be claiming an interest in the vehicle, by registered mail addressed to those persons at the last known addresses appearing on the records of the department.

(c) Any person receiving the notice of the lien and the intent to seize and sell the vehicle may request a hearing to contest the existence or amount of the lien. If no hearing is requested, the vehicle shall be seized and sold.

(d) If a hearing is requested, 10-days' notice shall be given of the time and place of the hearing, which shall be held within the county of residence of the person requesting the hearing or of the registered owner. The hearing shall be conducted by a referee who shall submit findings and recommendations to the Registrar of Vehicles or authorized representative, who shall decide the matter. The decision shall be effective on notice thereof to the interested parties.

(e) At any time before seizure or sale, any registered owner, legal owner, or person claiming an interest in the vehicle may pay the department the amount of the lien, plus costs. In that event, the seizure or sale shall not be held and the vehicle, if seized, shall be returned by the department to the person entitled to its possession. This payment shall not constitute a waiver of the right to a hearing.

(f) When the department or an authorized agent has reasonable cause to believe that the lien may be jeopardized within the 10-day notice-of-intent period, the vehicle may be seized without prior notice to the registered or legal owner, upon obtaining authorization for the seizure from the Registrar of Vehicles or authorized representative. In all those cases, a notice of the lien and the intent to sell the vehicle shall be immediately given by the department to the legal and registered owner, and to any other person known to be claiming an interest in the vehicle. Any hearing to contest the lien and the seizure shall be requested within 10 days.

(g) When a lien exists against one or more vehicles in the possession of the same person or persons, the department may seize and sell a sufficient number of the vehicles to pay the lien, plus costs, on all the vehicles.

(h) The Department of the California Highway Patrol shall assist with the seizure and impounding of the vehicle. Any municipality or county law enforcement agency may assist with the seizure and impounding of the vehicle.

(i) Any property found by the department in any vehicle seized under the provisions of this article shall be handled by the department in the same manner as is provided in Sections 2414 and 2415.

9802. (a) The Registrar of Vehicles or authorized representative shall conduct the sale in the same manner as provided by law for the seizure and sale of personal property by the assessor for the collection of taxes due on personal property.

(b) The department may bid for the vehicle an amount equal to the lien held by the department for registration, transfer, and license fees, use taxes, bail, and any interest, penalties, and costs added thereto. In all cases where the vehicle becomes the property of the department, it shall be reduced to junk and sold.

(c) Proceeds of any sale shall, upon appropriation therefor to the department, be distributed or used by the department for the following purposes and in the following order:

(1) Costs incurred by the department.

(2) Registration and transfer fees and any penalty added thereto.

(3) License fees and any penalty added thereto.

(4) Use taxes and any interest or penalty added thereto.

(5) Perfected mechanics' liens.

(6) Perfected security interests.

(7) Bail for offenses relating to the standing or parking of a vehicle and any administrative service fee added thereto.

(8) Any remainder to the person entitled to possession of the vehicle.

(d) The department shall transmit to the Board of Equalization all use taxes, interest, and penalties collected under this article within 60 days after receipt thereof in the form which may be prescribed and approved jointly by the department and the board.

SEC. 8. Section 22851.10 of the Vehicle Code is amended to read:

22851.10. (a) Any vehicle determined to have a value not exceeding one hundred dollars ($100) pursuant to Section 22670 which was stored pursuant to this chapter, and which remains unclaimed, or for which reasonable towing and storage charges remain unpaid, shall be disposed of only to a licensed dismantler or scrap iron processor not earlier than 15 days after the date the Notice of Intent to Dispose of a Vehicle Valued at $100 or Less form required pursuant to subdivision (b) of Section 22851.8 was mailed, unless a Declaration of Opposition form has been signed and returned to the lienholder.

(b) If the vehicle has been disposed of to a licensed dismantler or scrap iron processor, the lienholder shall forward the following forms and information to the licensed dismantler or scrap iron processor within five days:

(1) A statement, signed under penalty of perjury, that a properly executed Declaration of Opposition form was not received.

(2) A copy of the notice sent to all interested parties.

(3) A certification from the public agency which made the determination of value pursuant to Section 22670.

(4) The proof of service pursuant to subdivision (e) of Section 22851.8 or a copy of the court judgment, if any in favor of the lienholder entered pursuant to subdivision (d) of Section 22851.8.

(5) The name, address, and telephone number of the licensed dismantler or scrap iron processor who received the vehicle.

(6) The amount the lienholder received for the vehicle.

CHAPTER 665

An act to add Section 6294 to the Revenue and Taxation Code, to amend Sections 9859 and 9862 of, and to add Sections 9858.5 and 9928 to, the Vehicle Code, relating to vessels.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 6294 is added to the Revenue and Taxation Code, to read:

6294. (a) When an undocumented vessel required to be registered under the Vehicle Code is sold at retail by other than a person holding a seller's permit and regularly engaged in the business of selling vessels, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vessel must pay the use tax to the Department of Motor Vehicles acting for, and on behalf of, the board pursuant to Section 9928 of the Vehicle Code.

(b) If the purchaser makes an application to the department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the undocumented vessel, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the department by the purchaser shall relieve the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

SEC. 2. Section 9858.5 is added to the Vehicle Code, to read:

9858.5. Any licensed yacht and ship broker acting as an authorized agent of the department may collect use tax on a vessel transfer when applicable, and transmit the use tax and the registration application and applicable fees to the department, or may submit the registration application and applicable fees to the department for collection of any use tax due.

SEC. 3. Section 9859 of the Vehicle Code is amended to read:

9859. All money received by an agent from the sale of certificates of number or temporary certificates of number and use tax shall be kept separate and apart from any other funds of the agent, and shall at all times belong to the state.

In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the agent, receiver, or trustee for all moneys owing the state for the sale

of certificates as provided in this code and any use tax, and shall not be estopped from asserting such claim by reason of the commingling of funds or otherwise.

SEC. 4. Section 9862 of the Vehicle Code is amended to read:

9862. (a) If the initial application for a number is not received by the department on or before the date set by the department, a penalty of one-half the fee shall be assessed. If a certificate of number is not renewed on or before midnight of the first Friday in February after the expiration of the prior year certificate of number, a penalty of one-half the fee shall be assessed, except where the vessel has not been used on the waters of the state subsequent to the expiration date.

(b) Whenever any person has received as a transferee of a vessel a properly endorsed certificate of ownership and certificate of number describing that vessel and the transfer fee has not been paid as required by this code within 30 days, a penalty of one-half of the transfer fee specified in Section 9855 shall be assessed.

SEC. 5. Section 9928 is added to the Vehicle Code, to read:

9928. The department shall withhold the certificate of number or the transfer of registration of any vessel sold at retail to any applicant by any person other than a person holding a seller's permit pursuant to Section 6066 of the Revenue and Taxation Code, and regularly engaged in the business of selling vessels, until the applicant pays to the department the use tax measured by the sales price of the vessel as required by the Sales and Use Tax Law, together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his application for registration or transfer of registration and thereafter he may apply through the Department of Motor Vehicles to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of the use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section.

(d) In computing any use tax or penalty thereon under the provisions of the section, dollar fractions shall be disregarded in the manner specified in Section 9559. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vessels to which this section relates.

(e) The department and the State Board of Equalization shall enter into an agreement for the collection of the use tax pursuant to this section and Section 6294 of the Revenue and Taxation Code. The

agreement shall specify the procedures agreed upon by the department and the board for collection of the tax and the reimbursement provided for in subdivision (c). The agreement shall be approved by the Department of Finance.

CHAPTER 666

An act to amend Section 1985.3 of the Code of Civil Procedure, relating to subpoenas.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 1985.3 of the Code of Civil Procedure is amended to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original or any copy of books, documents or other writings pertaining to a consumer and which are maintained by any "witness" which is a physician, hospital, state or national bank, state or federally chartered savings and loan association, state or federal credit union, trust company, security brokerage firm, insurance company, underwritten title company, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code.

(2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with or has used the services of such witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to the provisions of Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(b) The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days from the date the subpoena is issued. Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum,

of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (e). Such service shall be made both:

(1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall do either of the following:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign such authorization on behalf of the consumer acted with the consent of the consumer.

(d) A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof.

(e) Every copy of the subpoena duces tecum and affidavit served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) Any consumer whose personal records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness prior to production. No witness shall be required to produce personal records after receipt of notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

(g) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision

(b) where due diligence by the subpoenaing party has been shown.

(h) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(i) The provisions of this section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

(j) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.

CHAPTER 667

An act to amend Section 13531.5 of the Business and Professions Code, relating to motor vehicle fuel.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 13531.5 of the Business and Professions Code is amended to read:

13531.5. (a) Except as provided in subdivision (b), every sign, statement, or advertising medium which indicates the price of gasoline or other motor vehicle fuel for sale from the premises shall show the actual price per gallon or liter of gasoline or other motor vehicle fuel including taxes, together with the word or words "gasoline" or "motor fuel" and the trade name or brand and grade designation of the gasoline or other motor vehicle fuel product advertised for sale by the advertising medium.

(b) Until the time as 75 percent of the businesses selling gasoline or other motor vehicle fuel at retail in this state do so by the liter, such time to be determined by the department, a person selling gasoline or other motor vehicle fuel by the liter shall be authorized to advertise its price by displaying on the sign either its price per liter or its price per gallon. After that time, but not prior to July 1, 1981, every person selling gasoline or other motor vehicle fuel shall be required to advertise its price by displaying on the sign its price per liter, regardless of whether the gasoline or other motor vehicle fuel is sold by the liter or by the gallon.

(c) The numerals indicating the price on the sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name, or the words "no brand," on the

sign shall not be less than one-third the size of the numerals designating the price; and the height of the letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of the letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on the sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price; and the height of the letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. Except as provided in subdivision (b), if gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on the sign in letters not less than one-third the size of the numerals designating the price; and the height of the letters shall not be more than twice the dimension of the width.

(d) (1) Except as specified in paragraph (2), no person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter," or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less," or "discount" of a given amount, such as "5 cents discount," or otherwise using the words "save," "off," "discount," "less," "below," or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement, or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which the reduction will be made, the reduction given and the total net price per gallon, including all taxes, at which gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. The words shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(2) Notwithstanding any other provision of this division, a person offering for sale or selling any motor vehicle fuel from any place of business in this state may post, as an attachment to an existing price sign, a sign or statement which uses the expression "cash discount" of a given amount, such as "less 5 cents per gallon cash discount," provided the following conditions are met:

(A) There is posted and displayed as part of the same advertising medium the price or prices per gallon or liter, including all taxes, from which the discount is taken, and the amount of the discount per gallon or liter. The height of the numerals indicating the discount

shall not exceed the height of the numerals in the advertised price.

(B) (i) Words, clearly shown in letters at least one-third the size of the numerals indicating the prices, shall be used to explain the conditions and any limitations under which a discount is offered and shall clearly indicate that the discount is to be deducted from the advertised price or (ii) an advertising medium shall be displayed which complies with subdivisions (e) and (f).

(C) The advertising medium posted or displayed shall not be false, deceptive, or misleading in any particular.

(D) There shall be available for each customer's reference a chart showing the amount of discount for each type unit being sold (gallon/liter) or fraction thereof in one cent (0.01) increments, or the retail dispensers used to dispense fuel at the discount price shall be set to compute the total sale at the discounted price per gallon or liter and shall be clearly labeled "Includes Cash Discount" in letters not less than one inch in height.

For purposes of this paragraph, the gasoline or motor vehicle fuel shall be sold in the same unit of measurement (e.g., gallons or liters) in which the discount and the gross price are advertised. The "gross price" means the total price, including all taxes, but excluding the discount.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of the brand or grade unless the sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which the brand or grade is sold, offered for sale, or advertised for sale and unless the sign or advertising medium explains the conditions under which the brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(f) In the event that the same grade of gasoline or other motor vehicle fuel is sold at different prices from the dispensing devices on the premises of any single place of business, the various prices at which the same grade of gasoline or other motor vehicle fuel is sold shall all be advertised in the same form, either in the form of price per gallon or in the form of price per liter, as authorized or required by law.

SEC. 1.5. Section 13531.5 of the Business and Professions Code is amended to read:

13531.5. (a) Except as provided in subdivision (b), every sign, statement, or advertising medium which indicates the price of gasoline or other motor vehicle fuel for sale from the premises shall show the actual price per gallon or liter of gasoline or other motor vehicle fuel including taxes, together with the word or words "gasoline" or "motor fuel" and the trade name or brand and grade

designation of the gasoline or other motor vehicle fuel product advertised for sale by the advertising medium.

(b) Until the time that 75 percent of the businesses selling gasoline or other motor vehicle fuel at retail in this state do so by the liter, such time to be determined by the department, a person selling gasoline or other motor vehicle fuel by the liter shall be authorized to advertise its price by displaying on that sign either its price per liter or its price per gallon. After that time, but not prior to July 1, 1981, every person selling gasoline or other motor vehicle fuel shall be required to advertise its price by displaying on the sign its price per liter, regardless of whether the gasoline or other motor vehicle fuel is sold by the liter or by the gallon.

(c) The numerals indicating the price on the sign shall be of uniform size and at least six inches in height. All letters or numerals used in designating the brand name, or the words "no brand," on the sign shall not be less than one-third the size of the numerals designating the price; and the height of the letters or numerals shall not be more than twice the dimension of the width. All letters or numerals used in designating the product, such as "gasoline" or other motor fuel, shall be not less than one-third the size of the numerals designating the price; and the height of the letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. All letters or numerals on the sign designating the grade of the gasoline or motor fuel shall be not less than one-sixth the size of the numerals designating the price; and the height of the letters or numerals shall not be more than twice the dimension of the width, except that these letters or numerals need not be larger than four inches in height. Except as provided in subdivision (b), if gasoline or other motor vehicle fuel is sold by the liter and advertised, the word "liter" shall be displayed on the sign in letters not less than one-third the size of the numerals designating the price; and the height of the letters shall not be more than twice the dimension of the width.

(d) (1) Except as specified in paragraph (2), no person offering for sale or selling any gasoline or motor vehicle fuel from any place of business in the State of California shall post or display a sign or statement or other advertising medium reading, in substance, "save" a designated amount, or a designated amount per gallon or liter, such as "save 5 cents" or "save 5 cents per gallon or liter," or using the expression "off" a designated amount, such as "5 cents off" or "5 cents less," or "discount" of a given amount, such as "5 cents discount," or otherwise using the words "save," "off," "discount," "less," "below," or any of them, or a word or words of similar meaning or other phraseology indicating a reduced price, unless there is posted and displayed in letters and numerals of at least equal size and as part of the same sign, statement, or other advertising medium, the total price, or prices per gallon or liter, including all taxes from which the reduction will be made, the reduction given and the total net price per gallon, including all taxes, at which

gasoline or other motor vehicle fuel is being sold or offered for sale. Words shall be used to explain the reduced price, the amount of reduction, and the price from which the reduction is made. The words shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(2) Notwithstanding any other provision of this division, a person offering for sale or selling any motor vehicle fuel from any place of business in this state may post, as an attachment to an existing price sign, a sign or statement which uses the expression "cash discount" of a given amount, such as "less 5 cents per gallon cash discount," provided the following conditions are met:

(A) There is posted and displayed as part of the same advertising medium the price or prices per gallon or liter, including all taxes, from which the discount is taken, and the amount of the discount per gallon or liter. The height of the numerals indicating the discount shall not exceed the height of the numerals in the advertised price.

(B) (i) Words, clearly shown in letters at least one-third the size of the numerals indicating the prices, shall be used to explain the conditions and any limitations under which a discount is offered and shall clearly indicate that the discount is to be deducted from the advertised price or (ii) an advertising medium shall be displayed which complies with subdivisions (e) and (f).

(C) The advertising medium posted or displayed shall not be false, deceptive, or misleading in any particular.

(D) There shall be available for each customer's reference a chart showing the amount of discount for each type unit being sold (gallon/liter) or fraction thereof in one cent increments, or the retail dispensers used to dispense fuel at the discount price shall be set to compute the total sale at the discounted price per gallon or liter and shall be clearly labeled "Includes Cash Discount" in letters not less than one inch in height.

For purposes of this paragraph, the gasoline or motor vehicle fuel shall be sold in the same unit of measurement (e.g., gallons or liters) in which the discount and the gross price are advertised. The "gross price" means the total price, including all taxes, but excluding the discount.

(e) In the event that the same brand or grade of gasoline or motor fuel is sold at different prices from the dispensing devices on the premises of any single place of business, it shall be unlawful for any person to post or display any sign or advertising medium which indicates or shows or advertises a price of the brand or grade unless the sign or advertising medium indicates, shows, or advertises in letters or numerals of equal size each of the higher prices, including all taxes, for which the brand or grade is sold, offered for sale, or advertised for sale and unless the sign or advertising medium explains the conditions under which the brand or grade is advertised for sale, at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

(f) In the event that the same grade of gasoline or other motor vehicle fuel is sold at different prices from the dispensing devices on the premises of any single place of business, the various prices at which the same grade of gasoline or other motor vehicle fuel is sold shall all be advertised in the same form, either in the form of price per gallon or in the form of price per liter, as authorized or required by law.

(g) Nothing in this section shall be construed to prohibit any person who has posted or displayed any sign or advertising medium in conformity with the requirements of this chapter from displaying any additional signs or advertising media that state the price of one or more brands or grades of gasoline sold or offered for sale at the premises, provided that the conditions of the sale of the brand or grade of gasoline are included in the additional sign or advertising. The words explaining the conditions shall be clearly shown in letters at least one-third the size of the numerals indicating the prices.

SEC. 2. Notwithstanding the existing provisions of subdivision (d) of Section 13531.5, no criminal penalty shall be imposed on any person who posts a sign or statement authorized by paragraph (2) of subdivision (d) of that section as added by this act on and after January 1, 1982, and before the effective date of this act.

SEC. 2.5. It is the intent of the Legislature, if this bill and Senate Bill No. 1341 are both chaptered and become effective January 1, 1983, both bills amend Section 13531.5 of the Business and Professions Code, and this bill is chaptered after Senate Bill No. 1341, that the amendments to Section 13531.5 of the Business and Professions Code proposed by both bills be given effect and incorporated in Section 13531.5 of the Business and Professions Code in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 1341 are both chaptered and become effective January 1, 1983, both amend Section 13531.5 of the Business and Professions Code, and this bill is chaptered after Senate Bill No. 1341, in which case Section 1 of this act shall not become operative.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 668

An act to amend Section 13009 of the Health and Safety Code, relating to fire protection.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 13009 of the Health and Safety Code is amended to read:

13009. (a) Any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him or her to escape onto any public or private property is liable for the fire suppression costs incurred in fighting the fire and for the cost of providing rescue or emergency medical services, and those costs shall be a charge against that person. The charge shall constitute a debt of that person, and is collectable by the person, or by the federal, state, county, public, or private agency, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Any costs incurred by the Department of Forestry in suppressing any wildland fire originating or spreading from a prescribed burning operation conducted by the department pursuant to a contract entered into pursuant to Article 2 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code shall not be collectable from any party to the contract, including any private consultant or contractor who entered into an agreement with that party pursuant to subdivision (d) of Section 4475.5 of that code, as provided in subdivision (a), to the extent that those costs were not incurred as a result of a violation of any provision of the contract.

CHAPTER 669

An act to repeal Section 40517 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 40517 of the Vehicle Code is repealed.

CHAPTER 670

An act to amend Section 999e of the Penal Code, relating to career criminals.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 27, 1982.]

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

SECTION 1. Section 999e of the Penal Code is amended to read:

999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto, and lewd or lascivious conduct upon a child; and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of such felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision:

(1) Robbery as defined in Section 211, burglary of the first degree, arson as defined in Section 451, unlawfully causing a fire as defined in Section 452, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(2) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon or instrument, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the defendant; and (2) the number and the seriousness of the offenses currently charged against the defendant.

CHAPTER 671

An act to amend Section 871.5 of the Penal Code, relating to criminal procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 28, 1982.]

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

SECTION 1. Section 871.5 of the Penal Code is amended to read:

871.5. (a) When an action is dismissed by a magistrate pursuant to Section 859b, 861, 871, 1008, 1381, 1381.5, 1385, 1387, or 1389, or a portion thereof is dismissed pursuant to those same sections which may not be charged by information under the provisions of Section 739, the prosecutor may make a motion in the superior court within 15 days to compel the magistrate to reinstate the complaint or a portion thereof and to reinstate the custodial status of the defendant under the same terms and conditions as when the defendant last appeared before the magistrate and, where the magistrate's dismissal of the complaint or a portion thereof was the result of an erroneous ruling on a question of law, to issue an order of commitment for the offense or offenses reinstated, pursuant to Section 872.

(b) Notice of the motion shall be made to the defendant and the magistrate. The only ground for the motion shall be that, as a matter of law, the magistrate erroneously dismissed the action or a portion thereof.

(c) The superior court shall hear and determine the motion on the basis of the record of the proceedings before the magistrate. If the motion is litigated to decision by the prosecutor, the prosecution is prohibited from refiling the dismissed action, or portion thereof.

(d) Within 10 days after the magistrate has dismissed the action or a portion thereof, the prosecuting attorney may file a written request for a transcript of the proceedings with the clerk of the magistrate. The reporter shall immediately transcribe his or her shorthand notes pursuant to Section 869 and file with the clerk of the superior court an original plus one copy, and as many copies as there are defendants (other than a fictitious defendant). The reporter shall be entitled to compensation in accordance with the provisions of Section 869. The clerk of the superior court shall deliver a copy of the transcript to the prosecuting attorney immmediately upon its receipt and shall deliver a copy of the transcript to each defendant (other than a fictitious defendant) upon his or her demand without cost.

(e) When a court has ordered the resumption of proceedings before the magistrate, the magistrate shall resume the proceedings and when so ordered, issue an order of commitment for the reinstated offense or offenses within 10 days after the superior court

has entered an order to that effect or within 10 days after the remittitur is filed in the superior court. Upon receipt of the remittitur, the superior court shall forward a copy to the magistrate.

(f) Pursuant to paragraph (9) of subdivision (a) of Section 1238 the people may take an appeal from the denial of the motion by the superior court to reinstate the complaint or a portion thereof. If the motion to reinstate the complaint is granted, the defendant may seek review thereof only pursuant to Sections 995 and 999a. Such review may only be sought in the event the defendant is held to answer pursuant to Section 872.

(g) Nothing contained herein shall preclude a magistrate, upon the resumption of proceedings, from considering a motion made pursuant to Section 1318.

If the superior court grants the motion for reinstatement and orders the magistrate to issue an order of commitment, the defendant, in lieu of resumed proceedings before the magistrate, may elect to waive his or her right to be committed by a magistrate, and consent to the filing of an amended or initial information containing the reinstated charge or charges. After arraignment thereon, he or she may adopt as a motion pursuant to Section 995 the record and proceedings of the motion taken pursuant to this section and the order issued pursuant thereto, and may seek review of the order in the manner prescribed in Section 999a.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that procedures throughout the state may be made uniform and more economical as soon as possible, thus contributing to the public safety through the resulting improvement in the criminal justice system, it is necessary that this act take effect immediately.

CHAPTER 672

An act to amend Section 12157 of the Fish and Game Code, and to amend Section 259 of the Welfare and Institutions Code, relating to fish and game.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 28, 1982.]

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

SECTION 1. Section 12157 of the Fish and Game Code is amended to read:

12157. The judge before whom any person is tried for a violation of any provision of this code or regulation made pursuant thereto

may, in his discretion, upon the conviction of the accused, order the forfeiture of any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the offense charged. Any device or apparatus so forfeited shall be sold or destroyed by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund. For the purpose of this section, forfeiture of bail shall constitute a conviction.

The provisions in this section authorizing a judge to order the forfeiture of a device or apparatus are applicable to the judge, referee, or traffic hearing officer in a juvenile court action brought under Section 259 of the Welfare and Institutions Code.

Neither disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction shall impair the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 8630.

SEC. 2. Section 259 of the Welfare and Institutions Code is amended to read:

259. Upon a hearing conducted in accordance with Section 257, upon admission by the minor of the commission of a violation of the Fish and Game Code charged, or upon a finding that the minor did in fact commit such violation of the Fish and Game Code, the judge, referee, or traffic hearing officer may do any of the following:

(a) Reprimand the minor and take no further action.

(b) Direct the probation officer to file a petition as provided for in Article 16 (commencing with Section 650) of this chapter.

(c) Make any or all of the following orders:

(1) That the fishing or hunting license involved be suspended or restricted.

(2) That the minor pay to the general fund of the county a sum, not to exceed twenty-five dollars ($25).

(3) That the minor work in a park or conservation area for a total of not to exceed eight hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment.

(4) That the minor forfeit, pursuant to Section 12157 of the Fish and Game Code, any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the violation charged.

The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 673

An act to add Section 53971.3 to, and to repeal Section 53980 of, the Government Code, relating to county criminal justice facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1982 Filed with Secretary of State August 28, 1982]

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

SECTION 1. Section 53971.3 is added to the Government Code, to read:

53971.3. As used in this article, "police protection services" includes county criminal justice facilities, which shall be limited to, jails, detention facilities, and juvenile halls. The cost of providing police protection services includes the cost of constructing, reconstructing, expanding, or improving county criminal justice facilities, and any necessary debt service associated therewith.

SEC. 2. Section 53980 of the Government Code is repealed.

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

Throughout the state, counties are facing a property- and life-threatening crisis in attempting to afford their citizens essential police protection services. The level of service which the counties are able to furnish is directly related to the availability of adequate criminal justice facilities. In many instances counties are constrained in their efforts to provide an acceptable level of essential police protection services because of overcrowded, overused, and otherwise inadequate criminal justice facilities which the counties are unable to replace or improve because of reduced revenue sources. This act would enable the voters of a county to alleviate the potential crisis in the criminal justice system by approving additional sources of revenue for this specific purpose. In order that counties may employ the authorization afforded by this act and avert further deterioration of essential police protection services, it is essential that this act go into immediate effect.

CHAPTER 674

An act to amend Section 496 of the Public Utilities Code, relating to carriers.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 28, 1982.]

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

SECTION 1. Section 496 of the Public Utilities Code is amended to read:

496. (a) For purposes of this section—

(1) The term "carrier" means any common carrier subject to regulation under this part.

(2) The term "antitrust laws" means the provisions of Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code, relating to combinations in restraint of trade.

(b) Any carrier which is a party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation, or establishment thereof, may, under such rules and regulations as the commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any such agreement, if approval thereof is not prohibited by subdivision (d), (e), or (f), if it finds that the agreement and the rules, regulations, and procedures provided for the operation thereof are fair and reasonable and not contrary to public policy; otherwise the application shall be denied. The approval of the commission shall be granted only upon such terms and conditions as the commission may prescribe as necessary to enable it to grant its approval in accordance with this subdivision.

(c) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the commission such reports, as may be prescribed by the commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the commission or its duly authorized representatives.

(d) The commission shall not approve under this section any agreement between a carrier by highway and a carrier by rail unless it finds that the agreement is of the character described in subdivision (b) and is limited to matters relating to transportation under joint rates or over through routes.

(e) The commission shall not approve under this section any agreement which it finds is an agreement with respect to the pooling or division of traffic, service, or earnings, unless the commission finds that the agreement will be in the interest of better service to the public or of economy of operation resulting in efficient utilization of fuel and will not unduly restrain competition.

(f) The commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

(g) The commission may, upon complaint or upon its own initiative without complaint, investigate and determine whether any agreement previously approved by it under this section, or any term or condition upon which the approval was granted, is not in conformity with subdivision (b), or whether any such term or condition is not necessary for purposes of conformity with subdivision (b). After the investigation, the commission may by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with subdivision (b), and may modify the terms and conditions upon which the approval was granted to the extent it finds necessary to insure conformity with subdivision (b) or to the extent it finds such terms and conditions unnecessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, may be postponed for such period as the commission determines is reasonably necessary to avoid undue hardship.

(h) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

(i) The parties to any agreement approved by the commission under this section and other persons are, if the approval of the agreement is not prohibited by subdivision (d), (e), or (f), hereby exempted from the antitrust laws with respect to the agreement under the terms and conditions prescribed by the commission.

(j) Any action of the commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of subdivision (i).

CHAPTER 675

An act to amend Section 5353 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 28, 1982.]

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

SECTION 1. Section 5353 of the Public Utilities Code is amended to read:

5353. The provisions of this chapter do not apply to:

(a) Transportation service rendered wholly within the corporate limits of a single city or city and county.

(b) Transportation of school pupils conducted by or under contract with the governing board of any school district entered into pursuant to authority vested by the provisions of the Education Code.

(c) Common carrier transportation services between fixed termini or over a regular route which are subject to authorization pursuant to the provisions of Article 2 (commencing with Section 1031), Chapter 5, Part 1, Division 1 of this code.

(d) Transportation services occasionally afforded for farm employees moving to and from farms on which employed when such transportation is performed by the employer in vehicles owned or leased by him, or by a nonprofit agricultural cooperative association organized and acting within the scope of its powers under Chapter 4 (commencing with Section 1190), Division 6 of the Agricultural Code, and without any requirement for the payment of compensation therefor by the employees.

(e) Transportation service rendered by a publicly owned transit system.

(f) Passenger vehicles carrying passengers on a noncommercial enterprise basis.

(g) Taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver.

(h) Passenger vehicles having a seating capacity of 15 passengers or less in a single daily round trip carrying at least three persons from place of residence to place of employment, if the driver himself is on the way to or from his place of employment.

(i) Medical transportation vehicles.

(j) Transportation services rendered solely within the Lake Tahoe Basin, comprising that area included within the Tahoe Regional Planning Compact as set forth in Section 66801 of the Government Code, when the operator of such services has obtained any permit required from the Tahoe Basin Transportation Authority or the City

of South Lake Tahoe, or both.

SEC. 2. The Legislature finds and declares that this act is necessary since special facts and circumstances applicable to the Lake Tahoe Basin, and not generally applicable, make the accomplishment of this purpose impossible by any general law. The great influx of visitors to this area has caused transportation and air quality problems for which a tri-agency transportation agency, the Tahoe Basin Transportation Authority, comprising areas both in California and Nevada, has been created. The Legislature finds and declares that this act is necessary to allow this regional agency authority to deal with regional transportation and air pollution problems on a regional basis. The Legislature further finds and declares that the purpose of this act is impossible to accomplish by any general law, and that special legislation applicable only to the Lake Tahoe Basin is therefore necessary.

CHAPTER 676

An act to amend Sections 1603, 2001, 2010, 2011, 2462, 2466, 2531, 2531.2, 2604, 2604.5, 2703, 2843, 2920, 2922, 3010, 3013, 3320, 3321, 3504, 3505, 3507, 3910, 3914, 4000, 4001, 4002, 4800, 4802, 4832, 4928, 4929, 4930, 5000, 5515, 5620, 5621, 6500, 6502, 6710, 6712, 6865, 6866, 7000.5, 7003, 7301, 7303, 7601, 7603, 7810, 7814, 8000, 8001, 8520, 8522, 9001, 9003, 9530, 9531, 9625, 9817, 9820, 9882.6, 9882.8, 9926, 9929, 19035, and 19035.3 of the Business and Professions Code, relating to licensing agencies in the Department of Consumer Affairs.

[Approved by Governor August 27, 1982. Filed with Secretary of State August 28, 1982.]

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

SECTION 1. Section 1603 of the Business and Professions Code is amended to read:

1603. Members of the board shall be appointed for a term of four years, and each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

A vacancy occurring during a term shall be filled by appointment for the unexpired term, within 30 days after it occurs.

No person shall serve as a member of the board for more than two terms.

The Governor shall appoint two of the public members and the eight licensed dentist members of the board. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which

occur on or after January 1, 1983.

SEC. 2. Section 2001 of the Business and Professions Code is amended to read:

2001. There is in the Department of Consumer Affairs a Board of Medical Quality Assurance which consists of 19 members, seven of whom shall be public members.

The Governor shall appoint 17 members to the board, subject to confirmation by the Senate, five of whom shall be public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 3. Section 2010 of the Business and Professions Code is amended to read:

2010. Each member of the board shall be appointed for a term of four years.

Vacancies occuring on the board shall be filled by appointment of the appointing power for the unexpired term.

SEC. 4. Section 2011 of the Business and Professions Code is amended to read:

2011. The appointing power may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.

SEC. 5. Section 2462 of the Business and Professions Code is amended to read:

2462. The committee shall consist of six members, two of whom shall be public members. Not more than one member of the committee shall be a full-time faculty member of a college or school of podiatric medicine. The Governor shall give consideration to recommendations of the board after the board has consulted with the committee, except with regard to the public members.

The Governor shall appoint the four members qualified as provided in Section 2463. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member , and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 6. Section 2466 of the Business and Professions Code is amended to read:

2466. All members of the committee shall be appointed for terms of four years. Vacancies shall immediately be filled by the appointing power for the unexpired portion of the terms in which they occur. In filling vacancies, the Governor shall consider recommendations as provided in Section 2462. No person shall serve as a member of the committee for more than two consecutive terms.

SEC. 7. Section 2531 of the Business and Professions Code is amended to read:

2531. There is hereby created a Speech Pathology and Audiology Examining Committee under the jurisdiction of the Division of

Allied Health Professions of the Board of Medical Quality Assurance of the State of California. The committee shall consist of nine members, three of whom shall be public members.

SEC. 7.5. Section 2531.2 of the Business and Professions Code is amended to read:

2531.2. The membership of the committee shall include three licensed speech pathologists, three licensed audiologists, and three public members one of whom is a licensed physician and surgeon, board certified in otolaryngology, and the remaining two public members who shall not be licentiates of the committee or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

The Governor shall appoint the physician and surgeon member and the other six licensed members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 8. Section 2604 of the Business and Professions Code is amended to read:

2604. The members of the examining committee shall be appointed for a term of four years, expiring on the first day of June of each year.

The Governor shall appoint one of the public members and the three physical therapist members of the board qualified as provided in Section 2603. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

Not more than one member of the examining committee shall be appointed from the full-time faculty of any university, college, or other educational institution.

No person may serve as a member of the examining committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually the examining committee shall elect one of its members as chairman.

The appointing power shall have the power to remove any member of the examining committee from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 9. Section 2604.5 of the Business and Professions Code is amended to read:

2604.5. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of California.

(b) Shall not be an officer or faculty member of any college, school or institution engaged in physical therapy education.

(c) Shall not be a licentiate of the board or of any board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 10. Section 2703 of the Business and Professions Code is amended to read:

2703. All appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.

The Governor shall appoint one of the public members and the licensed members of the board qualified as provided in Section 2702. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 11. Section 2843 of the Business and Professions Code is amended to read:

2843. Members of the board shall be appointed for a term of four years. Vacancies occurring shall be filled by appointment for the unexpired term.

Appointments to such office shall be for a term of four years expiring on June 1st.

The Governor shall appoint three of the public members and the licensed members of the board qualified as provided in Section 2842. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 12. Section 2920 of the Business and Professions Code is amended to read:

2920. The Psychology Examining Committee of the Board of Medical Quality Assurance of the Department of Consumer Affairs shall administer the provisions of this chapter. The committee shall consist of eight members, three of whom shall be public members.

SEC. 13. Section 2922 of the Business and Professions Code is amended to read:

2922. In appointing the members of the committee, except the public members, the Governor shall use his judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California.

The Governor shall appoint one of the public members and the five licensed members of the board qualified as provided in Section 2923. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 14. Section 3010 of the Business and Professions Code is amended to read:

3010. There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of nine members, three of whom shall be public members.

Six members of the board shall constitute a quorum.

SEC. 15. Section 3013 of the Business and Professions Code is amended to read:

3013. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint one of the public members and the six members qualified as provided in Section 3011. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 16. Section 3320 of the Business and Professions Code is amended to read:

3320. There is within the jurisdiction of the board a Hearing Aid Dispensers Examining Committee which shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The committee may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the committee, provided, however, that the committee shall establish the guidelines for the examination and shall approve the actual examination. The committee shall consist of seven members. Four members shall be public members, one of whom shall be a licensed physician and surgeon specializing in treatment of the diseases of the ear and certified by the American Board of Otolaryngology, and another public member shall be an audiologist licensed under Chapter 5.3 (commencing with Section 2530). Each public member shall be a citizen of the United States, a resident of the State of California, and of good moral character. The remaining three members shall be, and shall have been for at least five years immediately preceding their appointment, engaged exclusively in this state in the practice of fitting or selling hearing aids to persons with impaired hearing. All hearing aid dispenser members, other than those first appointed, who are appointed to the committee after the date on which the board first issued a license, as provided in Section 3354, shall be persons who hold valid licenses under this chapter.

The director or his deputy shall be entitled to attend all meetings of the committee, except that neither shall have the power to vote nor shall be counted for quorum purposes.

SEC. 17. Section 3321 of the Business and Professions Code is amended to read:

3321. Each member of the committee, except the members first appointed, shall hold office for a term of four years. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term. Each member of the committee shall be eligible for reappointment in the discretion of the appointing power, provided that reappointed hearing aid dispenser members shall, at the time of the reappointment, hold a valid license under this chapter. No person may serve as a member of the committee more than two consecutive terms.

The Governor shall appoint two of the public members and the three members qualified as provided in Section 3320. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 18. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician's Assistant Examining Committee of the Board of Medical Quality Assurance. The committee shall consist of nine members.

SEC. 18.4. Section 3505 of the Business and Professions Code is amended to read:

3505. The members of the committee shall include one member of the board, who shall be chairman of the committee, a physician representative of a California medical school, an educator participating in an approved program for the training of physicians' assistants, one physican who is an approved supervising physician of an approved physician's assistant and who is not a member of the board, one registered nurse, two approved physicians' assistants, and two public members. The Governor shall appoint the approved physicians' assistants members to the committee 30 days after the effective date of this section.

Each member of the committee shall hold office for a term of four years, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Members of the Advisory Committee on Physician's Assistants and Nurse Practitioners, in office on the effective date of this section and who meet the standards for membership established in this section, shall continue to serve as members as though appointed on the effective date of this section. One member of the committee shall have a one-year term, four shall have three-year terms, and four shall have four-year terms. Each member shall be eligible for reappointment to one more consecutive term. Vacancies shall be filled by appointment for the unexpired terms.

The Governor shall appoint the licensed members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after

January 1, 1983.

SEC. 18.5. Section 3507 of the Business and Professions Code is amended to read:

3507. The appointing power has power to remove from office any member of the committee, as provided in Section 106.

SEC. 19. Section 3910 of the Business and Professions Code is amended to read:

3910. There is hereby created in the Department of Consumer Affairs a State Board of Examiners of Nursing Home Administrators which shall consist of nine members, all of whom shall be citizens of the United States and residents of this state.

SEC. 20. Section 3914 of the Business and Professions Code is amended to read:

3914. The terms of members shall be three years. Members of the board may be removed by the appointing power for cause.

Each member shall hold office until the appointment and qualification of his successor, or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring in membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

The Governor shall appoint three of the public members and the four members qualified as provided in Section 3911. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member , and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 21. Section 4000 of the Business and Professions Code is amended to read:

4000. There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 10 members.

SEC. 22. Section 4001 of the Business and Professions Code is amended to read:

4001. The Governor shall appoint seven competent registered pharmacists, residing in different parts of the state, to serve as members of the board. The Governor shall appoint one public member and the Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member who shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

SEC. 23. Section 4002 of the Business and Professions Code is amended to read:

4002. Members of the board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term.

The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 24. Section 4800 of the Business and Professions Code is amended to read:

4800. There is in the Department of Consumer Affairs a Board of Examiners in Veterinary Medicine in which the administration of this chapter is vested. The board consists of six members, two of whom shall be public members.

SEC. 25. Section 4802 of the Business and Professions Code is amended to read:

4802. The members of the board shall hold office for a term of four years. Each member shall serve until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. A member may be reappointed subject to the limitation contained in Section 4801.

Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur.

The Governor shall appoint the four members qualified as provided in Section 4801. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 26. Section 4832 of the Business and Professions Code is amended to read:

4832. (a) There is hereby created within the jurisdiction of the board, an Animal Health Technician Examining Committee, hereinafter referred to as the examining committee.

(b) The examining committee shall consist of eight members. The examining committee shall consist of three veterinarians licensed to practice veterinary medicine in the State of California, one of whom shall be involved in educating animal health technicians, three public members and two members who shall be registered as animal health technicians in the State of California, who shall serve at the pleasure of the appointing power. Appointments may be made from lists, if any, submitted by appropriate professional associations and societies.

The Governor shall appoint one of the public members and the five members qualified as provided in this subdivision. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

(c) All members of the examining committee shall be citizens of

the United States and residents of the State of California. All doctors of veterinary medicine who are appointed members of the examining committee, shall have been licensed to practice veterinary medicine, at least five years preceding their appointments.

(d) The members of the examining committee shall serve for a term of four years, except that the original examining committee appointments may be staggered to achieve rotational terms. No person may serve as a member of the committee for more than two consecutive terms.

(e) The first animal health technician appointed to the committee shall upon appointment become a registered animal health technician, provided such person meets the eligibility requirements to take the written and practical examination as established in Section 4841.5.

SEC. 27. Section 4928 of the Business and Professions Code is amended to read:

4928. There is within the jurisdiction of the board an Acupuncture Examining Committee which consists of 11 members.

SEC. 28. Section 4929 of the Business and Professions Code is amended to read:

4929. Five members of the committee shall be acupuncturists with 10 years of experience in acupuncture and not licensed as physicians and surgeons, two members of the committee shall be physicians and surgeons licensed in this state with two years of experience in acupuncture, and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist.

The Governor shall appoint two of the public members and the two licensed physician and surgeon members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 29. Section 4930 of the Business and Professions Code is amended to read:

4930. Each member of the committee shall be appointed for a term of three years.

SEC. 30. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs a State Board of Accountancy, which consists of nine members, four of whom shall be certified public accountants, two of whom shall be public accountants, and three of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint one of the public members and the six accountant members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each

appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 31. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the four licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 32. Section 5620 of the Business and Professions Code is amended to read:

5620. There is in the Department of Consumer Affairs a California State Board of Landscape Architects, which shall consist of six members. The membership of the board shall at all times consist of one member who is a resident of, and practices landscape architecture in southern California and one member who is a resident of, and practices landscape architecture in northern California. Two members of the board shall be licensed to practice landscape architecture in this state. The other four shall be public members who shall not be licentiates of the board.

SEC. 33. Section 5621 of the Business and Professions Code is amended to read:

5621. Appointments to the board shall be for a four-year term. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than three consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 5620. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 34. Section 6500 of the Business and Professions Code is amended to read:

6500. There is in the Department of Consumer Affairs a State Board of Barber Examiners, which consists of five members, three of whom shall be public members and two of whom shall be qualified as provided in Section 6501.

The Governor shall appoint one of the public members and the two members qualified as provided in Section 6501. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 35. Section 6502 of the Business and Professions Code is amended to read:

6502. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Vacancies shall be filled by appointment for the unexpired term.

The Governor may remove a member for cause.

Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 36. Section 6710 of the Business and Professions Code is amended to read:

6710. There is in the Department of Consumer Affairs a State Board of Registration for Professional Engineers, which consists of 13 members.

SEC. 37. Section 6712 of the Business and Professions Code is amended to read:

6712. All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.

Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office on November 23, 1970.

The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an

electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering.

The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 38. Section 6865 of the Business and Professions Code is amended to read:

6865. The California Advisory Board of Collection Agencies, which consists of seven members is continued in existence as the Collection Agency Advisory Board in the Bureau of Collection and Investigative Services.

SEC. 39. Section 6866 of the Business and Professions Code is amended to read:

6866. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No members shall serve more than two terms of office. Appointments to the board shall be for a term of four years.

The Governor shall appoint two of the public members and the three licensed members qualified as provided in Section 6865.5. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 40. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 13 members.

SEC. 41. Section 7003 of the Business and Professions Code is amended to read:

7003. Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring in the membership of the board for any cause

shall be filled by appointment for the balance of the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131.

The Governor shall appoint five of the public members and the six members qualified as provided in Section 7002. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 42. Section 7301 of the Business and Professions Code is amended to read:

7301. There is in the Department of Consumer Affairs a State Board of Cosmetology, which consists of seven members, four of whom shall be public members.

Wherever in this chapter, "board" is used it refers to the State Board of Cosmetology.

SEC. 43. Section 7303 of the Business and Professions Code is amended to read:

7303. Members of the board shall be appointed for a term of four years and shall hold office until the appointment and qualifications of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No member shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring shall be filled by appointment within 60 days, and vacancies occurring during a term shall be filled for the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint two of the public members and the three members qualified as provided in Section 7302. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 44. Section 7601 of the Business and Professions Code is amended to read:

7601. There is in the Department of Consumer Affairs a State Board of Funeral Directors and Embalmers which consists of nine members, four of whom shall be licentiates of the board, and five of whom shall be public members.

SEC. 45. Section 7603 of the Business and Professions Code is amended to read:

7603. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the

board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

Vacancies occurring shall be filled by appointment for the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the four members qualified as provided in Section 7602. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 46. Section 7810 of the Business and Professions Code is amended to read:

7810. The State Board of Registration for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. The board shall consist of eight members, five of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist.

SEC. 47. Section 7814 of the Business and Professions Code is amended to read:

7814. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 48. Section 8000 of the Business and Professions Code is amended to read:

8000. There is in the Department of Consumer Affairs a Certified Shorthand Reporters Board, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

SEC. 49. Section 8001 of the Business and Professions Code is amended to read:

8001. Appointment as a member of the board shall be for a term of four years. Members of the board shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint one of the public members and the two certified members qualified as provided in Section 8000. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 50. Section 8520 of the Business and Professions Code is amended to read:

8520. There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of six members.

Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

SEC. 51. Section 8522 of the Business and Professions Code is amended to read:

8522. Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.

Vacancies shall be filled by the appointing power for the unexpired term.

Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 8521. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 52. Section 9001 of the Business and Professions Code is amended to read:

9001. There is in the Department of Consumer Affairs a Board of Behavioral Science Examiners which consists of 11 members.

SEC. 53. Section 9003 of the Business and Professions Code is amended to read:

9003. Each member of the board, except the members first

appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint four of the public members and the five licensed members qualified as provided in Section 9002 with the advice and consent of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 54. Section 9530 of the Business and Professions Code is amended to read:

9530. There is in the Department of Consumer Affairs the State Board of Fabric Care, which consists of seven members. The seven members of the board shall consist of four public members and three persons licensed or registered by the board. All board member licensees or registered persons shall have been actively engaged in the drycleaning industry for at least three years and after January 1, 1972, shall have been actively engaged in the drycleaning industry for at least five years. It is desirable that members from the drycleaning industry be so selected that there shall be a geographical balance.

Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 55. Section 9531 of the Business and Professions Code is amended to read:

9531. Members of the board shall be appointed for a term of four years, and they shall serve until the appointment and qualification of their successor, but in such case no member whose term of office has expired shall serve for a period longer than one year, unless reappointed to the board. No member shall serve more than two successive regular four-year terms.

Vacancies occurring shall be filled by appointment for the unexpired term. Before entering upon the duties of his office, each member of the board shall take and subscribe to the constitutional oath of office. A majority of the membership shall constitute a quorum for transacting any business of the board. A vacancy on the board shall not impair the right of the remaining members of the board to perform all duties and exercise the authority therein vested in the board. The appointing power may remove a member for cause, and shall remove any member who ceases to be actively engaged in the drycleaning industry.

The Governor shall appoint two of the public members and the three licensed members qualified as provided in Section 9530 with confirmation of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member , and their initial appointment shall be made to fill, respectively, the first

and second public member vacancies which occur on or after January 1, 1983.

SEC. 56. Section 9625 of the Business and Professions Code is amended to read:

9625. There is in the department a Cemetery Board which consists of six members, including four members representing the public at large.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint two of the public members and the two members qualified as provided in Section 9626 with confirmation of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 57. Section 9817 of the Business and Professions Code is amended to read:

9817. There is in the bureau an Electronic and Appliance Repair Advisory Board. It consists of nine members.

SEC. 58. Section 9820 of the Business and Professions Code is amended to read:

9820. Five members of the advisory board shall be selected to represent the public, two members shall be selected from the radio, television and audio or video recorder or playback equipment repair industry, and two members shall be selected from the appliance repair industry.

The Governor shall appoint three of the public members and the four members qualified as provided in this section subject to confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 59. Section 9882.6 of the Business and Professions Code is amended to read:

9882.6. There is in the bureau a board which consists of nine members. Of the nine members, five shall be selected from the public and four members shall be selected from the automotive repair industry. Each member of the board shall be a United States citizen, a resident of California, and of good moral character. All nonpublic members shall have had at least five years of experience in the industry, and whenever possible shall have been licensed under this act for a period of at least five years.

SEC. 60. Section 9882.8 of the Business and Professions Code is amended to read:

9882.8. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and

qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment to the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint three of the public members and the four members qualified as provided in Section 9882.6. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 61. Section 9926 of the Business and Professions Code is amended to read:

9926. There is in the Bureau of Employment Agencies a California Advisory Board to the Bureau of Employment Agencies, which consists of seven members.

SEC. 62. Section 9929 of the Business and Professions Code is amended to read:

9929. Notwithstanding any other provision of this code, each member of the board shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Appointments to the board shall be made for a term of four years.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint two of the public members and the three industry members qualified as provided in Section 9927. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 63. Section 19035 of the Business and Professions Code is amended to read:

19035. The California Advisory Board of Furniture and Bedding in the bureau, which consists of 11 members, is continued in existence as the California Advisory Board of Home Furnishings.

SEC. 64. Section 19035.3 of the Business and Professions Code is amended to read:

19035.3. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of his term, whichever first occurs.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

Each member appointed to the board, except the members

appointed to represent the public at large, shall be from the same branch of the furniture and bedding industry as his predecessor.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint four of the public members and the five members of the industry qualified as provided in Section 19035.1. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

CHAPTER 677

An act to amend Sections 70059.7, 74642, 74643, 74644, 74645, and 74647 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State August 30, 1982.]

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

SECTION 1. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County each regular official reporter shall be paid a biweekly salary which shall be one thousand one hundred twenty-three dollars and twenty-five cents ($1,123.25) which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at the per diem rate of one hundred eleven dollars ($111) for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1984, unless ratified by statute by the Legislature prior to that date.

In such a county, the fee required by Section 70053 shall be ten dollars ($10).

In addition to any fee otherwise required, in all contested civil trials wherein the services of a court reporter have been requested by any party to the action, a per diem fee shall be charged to the party requesting such service, or, at the discretion of the court, to the parties on a pro rata basis, for each day of court reporting service or portion thereof, equal to the per diem rate established for pro tempore reporters of the court. If the court assesses the reporter's fee

on a pro rata basis, the reporter and fee attached thereto may be waived upon the timely stipulation of all parties. Fees in long-cause civil trials shall be posted with the clerk's office no later than 14 days prior to the date set for master calendar. Fees in short-cause civil trials of one day or less, shall be posted with the clerk's office no later than seven days prior to the date set for the short-cause calendar.

SEC. 2. Section 74642 of the Government Code is amended to read:

74642. Within the Santa Barbara-Goleta Judicial District there shall be the following officers, attachés, and employees:

Santa Barbara/Goleta Municipal Court	*Salary Range*
1 Account Clerk II	269
1 Account Clerk III	296
1 Assistant Clerk-Admin Officer-SB	386
1 Chief Deputy of the Municipal Court	335
1 Clerk-Admin Officer-SB	437
10 Clerk Typist II	259
10 Clerk Typist III	286
2 Data Entry Operator II	269
8 Municipal Court Clerk	306
3 Official Court Reporter Muni Court Bi-Wkly sal	1,123.25
1 Calendar Coordinator, Muni Court	354
1 Data Entry Operator III	283
1 Probation Officer I–II	351–380
1 Probation Officer I–II (part-time)	351–380

Marshal-Santa Barbara/Goleta Municipal Court	Salary Range
1 Account Clerk II	269
1 Assistant Marshal-SB	432
2 Clerk II	254
1 Clerk, Supervising	301
1 Clerk Typist II	259
8 Deputy Marshal	357
1 Marshal-SB	460
1 Marshal's Sergeant	392

SEC. 3. Section 74643 of the Government Code is amended to read:

74643. Within the Santa Maria Judicial District there shall be the following officers, attachés, and employees:

Santa Maria Municipal Court	Salary Range
1 Account Clerk III	296
1 Assistant Clerk-Admin Officer-SM	378
1 Chief Deputy Clerk	335

1	Clerk-Admin Officer-SM	425
3	Clerk Typist II	259
3	Clerk Typist III	286
3	Municipal Court Clerk	306
1	Account Clerk II	269
2	Data Entry Operator II	269

Marshal - Santa Maria Municipal Court		Salary Range
1	Account Clerk II	269
1	Account Clerk III	296
1	Assistant Marshal-SM	425
1	Clerk Typist II	259
4	Deputy Marshal	357
1	Deputy Marshal II	367
1	Marshal-SM	450

SEC. 4. Section 74644 of the Government Code is amended to read:

74644. Within the Lompoc Judicial District there shall be the following officers, attachés, and employees:

Municipal Court - Lompoc		Salary Range
1	Clerk-Admin Officer-Lompoc	403
1	Clerk Typist II	259
1	Clerk Typist III	286
1	Municipal Court Clerk	306
1	Assistant Clerk Admin Officer-Lompoc	362

Marshal-Lompoc Municipal Court		Salary Range
1	Admin Services Clerk I	301
1	Deputy Marshal	357
1	Marshal-Lompoc	437

SEC. 5. Section 74645 of the Government Code is amended to read:

74645. (a) It is the purpose of this section to provide compensation for municipal court employees and officers which is comparable to that paid to county employees holding equal or comparable positions in the Santa Barbara classified service as such comparability is determined by the Santa Barbara County Board of Supervisors.

(b) Whenever reference to a numbered salary range is made in any section of this article, the schedule and the salary ordinance of the County of Santa Barbara in effect January 1, 1982, shall apply.

(c) If the board of supervisors adopts a revised salary schedule for

county employees, the new schedule shall apply equally to employees of municipal courts and marshals' offices and conversion to the new schedule shall be made for such employees in the same manner on the same date as for the classified service.

(d) Notwithstanding any of the provisions of this article, the salary and benefits of municipal court employees and officers shall be changed in the same manner and at the same rate as a salary and benefit change is effective for other permanent county classified positions. Employees and officers of the municipal court shall be entitled to all employee benefits as they are provided and made applicable to positions within the classified service pursuant to Santa Barbara County ordinances or resolutions, to the extent that the benefits are not contrary to state law.

(e) All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provision of state law shall be governed by the personnel ordinances and resolutions of the Board of Supervisors of the County of Santa Barbara.

(f) Nothing in this article shall be construed to place marshals' or clerks' offices, their employees and attachés under the civil service system of Santa Barbara County but such employees and attachés may be placed under that civil service system by court rule adopted by the judges of their respective courts.

(g) Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following such changes unless ratified by the Legislature.

SEC. 6. Section 74647 of the Government Code is amended to read:

74647. (a) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059.7. Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(b) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided,

however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1984, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

(c) An official reporter when not engaged in the performance of duties of the municipal court, may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any other court in the County of Santa Barbara.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 678

An act to amend Section 5031 of the Education Code, relating to public education.

[Approved by Governor August 30, 1982. Filed with Secretary of State August 30, 1982.]

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

SECTION 1. Section 5031 of the Education Code is amended to read:

5031. Whenever a school district or community college district is divided for governing board membership purposes into wards, supervisorial districts, or trustee areas, the county superintendent of schools shall prepare and keep in his or her office a map showing the boundaries of such subdivisions of all districts under his or her jurisdiction. Whenever a proposal to initiate a change in trustee area boundaries is submitted to a county committee on school district organization pursuant to Section 5019 by resolution of the governing board of a district, and the proposal is approved, the costs of preparing, developing, and duplicating the maps and legal descriptions shall be borne by the district.

The county superintendent shall also prepare and keep in his or her office a record of all actions taken by the county committee on district organization in connection with trustee area boundaries.

SEC. 2. Notwithstanding the provisions of Sections 35573, 35575, and 35576 of the Education Code, an election to be held in the Seal Beach School District on November 2, 1982, for the annexation of the Seal Beach School District to the Los Alamitos Unified School District may provide, pursuant to an approved plan for annexation, that the respective territories affected shall remain liable only for the school

district bonded indebtedness for which they were liable prior to the effective date of the annexation.

CHAPTER 679

An act to amend Section 53066.1 of, and to add and repeal Section 53066.2 of, the Government Code, relating to community antenna television.

[Approved by Governor August 30, 1982. Filed with Secretary of State August 30, 1982.]

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

SECTION 1. (a) This act shall be known as the California Cable Television Development Act.

(b) After investigation, the Legislature finds and declares that:

(1) The cable television industry is an important news, entertainment, and information service whose economic health and continued growth and development are in the best interests of the people of the State of California and are matters of statewide concern.

(2) Cable television is an important source of news, information, culture, and ideas, entitled to the full protections afforded by the First Amendment to the United States Constitution and subdivision (a) of Section 2 of Article I of the California Constitution.

(3) The cable television industry operates in a competitive multimedia environment, and within such an environment the cable television consumer is best served when the cable television system is free to respond to its consumers without unreasonable governmental restraint.

(4) The expansion of cable television channel and service capacity and the provision of community service programming is in the best interests of the people of the State of California.

(5) The regulation of subscriber rates, charges, or rate structures established by a cable television system is a matter of statewide concern; accordingly, the state hereby preempts under the terms and conditions prescribed by this act any control or regulation of subscriber rates, charges, or rate structures heretofore or hereinafter established by any franchisor pursuant to Section 53066 of the Government Code, to the extent such control or regulation is inconsistent with the terms of Section 53066.1 of the Government Code.

SEC. 2. Section 53066.1 of the Government Code is amended to read:

53066.1. (a) Notwithstanding the provisions of Section 53066, any cable television system which meets all of the following criteria:

(1) Has a capacity of 20 or more video channels,

(2) Receives television signals from a satellite earth receiving station,

(3) (A) Has a subscriber penetration ratio of less than 70 percent in the entire franchise area which is located in a county or portion of a county which has available three significantly viewed television stations, or two significantly viewed television stations and an educational television station; or (B) has a subscriber penetration ratio of 70 percent or greater in a franchise area which is located in a county or a portion of a county which has available five significantly viewed television stations, or four significantly viewed television stations and an educational television station, and

(4) Complies, upon the filing of a statement pursuant to subdivision (d), with the community services channel requirements set forth in subdivision (f),

shall, upon written notice to the franchisor, be exempt from control by that franchisor or any other authority as to rates, charges, and rate structures, provided that such notice may not be given prior to the expiration of two years following the completion and activation of 80 percent of the plant miles required to be constructed by the franchisee pursuant to the original terms of its franchise.

(b) Notwithstanding the provisions of Section 53066, any cable television system which is unable to meet all the requirements of subdivision (a), whose franchise area is located in a county or portion of a county which has available three significantly viewed television stations, or two significantly viewed television stations and an educational television station, and:

(1) Has a subscriber penetration ratio of 70 percent or more in its franchise area and meets all requirements of subdivision (a), except clause (B) of paragraph (3), or

(2) Has a capacity of at least 12 video channels in a franchise area with fewer than 3,500 subscribers in a community of less than 20,000 in population, and otherwise meets the requirements of paragraph (4) of subdivision (a),

may, upon written notice to the franchisor, thereafter adjust its rates, charges, and rate structures at any time, without the approval of the franchisor or other authority, by an amount not to exceed 75 percent of the percentage increase in the Consumer Price Index for the period since the date of the last previous adjustment, or December 31, 1975, if there have been no adjustments since December 31, 1975.

(c) Notwithstanding the provisions of Section 53066, a cable television system which satisfies the requirements of subdivision (b), and which, prior to January 1, 1980, had a capacity of less than 20 video channels, and subsequently rebuilds its system to a capacity of 20 or more video channels, may initially raise its rates, charges, and rate structures, without the approval of the franchisor or other authority, to a level not to exceed the statewide average rates for those cable television systems having a capacity of 20 or more video channels, and thereafter adjust its rates, charges, and rate structures

at any time, without the approval of the franchisor or other authority, by an amount not to exceed 75 percent of the percentage increase in the Consumer Price Index for the period since the date of the last previous adjustment. The average rates shall be determined by multiplying each applicable cable television system's rates by the number of its subscribers, adding together that figure for all applicable cable television systems, and dividing that total by the total number of applicable subscribers.

(d) Within 15 working days of the issuance of the written notice to the franchisor under subdivision (a) or (b), the cable television system shall submit to the franchisor a statement, certified pursuant to Section 2015.5 of the Code of Civil Procedure, setting forth each of the following:

(1) The name under which the cable television system is doing business.

(2) The mailing address and telephone number of the system.

(3) The video channel capacity of the system.

(4) The subscriber penetration ratio of the system computed within 60 days prior to issuance of the notice to the franchisor.

(5) The method by which the system receives television signals from a satellite-earth receiving station.

(6) An identification of the significantly viewed television stations within the county in which the system operates.

(7) The facts demonstrating timely compliance with the community service channel requirement set forth in subdivision (f).

(e) Neither party to a franchise agreement or prospective franchise agreement, or any renewal thereof, shall request, demand, propose, or agree to any provision which by its terms or effect waives any right to which either party is entitled under this section. Any such provision shall be void. The provisions of this subdivision shall neither validate or invalidate any action by a party to a franchise agreement, prospective franchise agreement, or any renewal thereof entered into prior to January 1, 1983, which would otherwise be prohibited by its terms.

(f) A cable television system shall be deemed to be offering a community service channel program if the system does all of the following:

(1) (A) Provides, for those systems which have a capacity of not more than 20 video channels, one channel or its equivalent for use by local members of the public and government entities; or (B) provides for those systems which have a capacity of more than 20 video channels, a second such channel if the first channel is in use during 80 percent of the weekdays for 80 percent of the time during any consecutive 13-hour period for 10 consecutive weeks; or (C) provides, if such system has a capacity of more than 30 video channels, a third such composite channel if the second channel is in use during 80 percent of the weekdays for 80 percent of the time during any consecutive 13-hour period for 10 consecutive weeks.

Upon written request of the franchisor, for those systems which

have a capacity of 20 or more channels, the first such channel shall, if possible, consistent with the requirements of federal law, and reserving three additional channels for programming by the system, be provided as part of the basic service of the system.

(2) Participates by payment of fifty cents ($0.50) per subscriber per year to a nonprofit foundation formed by cable operators with a board of directors which shall include cable operators and a group of directors representing both local nongovernmental user groups and governmental user groups selected to reflect the diversity of population of the state. The purposes of the foundation shall include the encouragement of and the provision of: (A) instruction and training for individuals, groups, entities, and agencies interested in using community service channels; (B) the nondiscriminatory employment and promotion of other opportunities for minorities and women in the cable television industry; and (C) public information on the effective use of cable television community service channels. Such foundation shall have grant-making authority.

(3) In the event the local franchising authority has established or designated an entity whose purpose is substantially similar to the foundation identified in paragraph (2), then, in lieu of the requirement of paragraph (2), the cable television system may elect to provide forty cents ($0.40) per subscriber per year to that local entity and ten cents ($0.10) per subscriber per year to the statewide foundation.

(4) Provides, if requested, to individuals, groups and entities using community service channels, technical advice by local program staff and reasonable access to local studio and earth station receiving facilities, if such facilities and staff are part of the local system.

(5) Notifies secondary schools and community colleges located within the franchise area which furnish training in the uses of community service channels of the availability of the system's community service channels.

(6) Has available for use without charge tape playback facilities for entrance into the system.

(7) Provides, by display information on the community service channels, written notice to subscribers, or published notice, information to potential users of the opportunity to have access to community service channels.

(8) Provides, upon election to deregulate and thereafter, as requested, the name, address, and telephone number of the system, the name of the system manager, and the status and utilization of the community service channels, to the foundation for community service channels.

(g) (1) If at the time of a cable television system's election under subdivision (a), (b), or (c), the cable television system does not meet the capacity, satellite-earth receiving station or penetration ratio requirements thereof, or is not in substantial compliance with the material provisions of its franchise, excluding the performance of any term or condition which the system is or has been excused or

prevented from performing or which is, in whole or in part, in the control of a third party, or which is, in whole or in part, invalid, the franchisor may, within 90 days of receipt of the written notice of the system's election, notify the cable television system in writing of the noncompliance, setting forth in detail the grounds therefor. Within 30 days of receipt of the notice from the franchisor, the cable television system shall respond in writing to the grounds set forth therein. The franchisor shall have 30 days from the receipt of the system's response within which to renew its earlier objection and respond in writing to the cable television system, if the franchisor has reason to believe that the system does not meet the prescribed capacity, satellite-earth receiving station, or penetration ratio requirements, or that no good cause exists for the system's alleged failure to substantially comply with the material provisions of its franchise. The cable television system shall have 90 days from receipt of the second written notice from the franchisor within which to correct any such noncompliance and to notify the franchisor in writing of such correction.

(2) If the franchisor is not satisfied with the cable television system's attempts to meet the prescribed capacity, satellite-earth receiving station, or penetration ratio requirements, or to correct the alleged substantial noncompliance with the material provisions of its franchise within the 90-day period from receipt of the second notice from the franchisor, and the franchisor believes there is not valid excuse pursuant to paragraph (1), the franchisor shall notify the cable television system in writing of such dissatisfaction within 30 days from either the end of the 90-day period, or the receipt of notice from the system that it has corrected the noncompliance, whichever is sooner. If the franchisor does not provide such written notice within the 30-day period, it shall be barred, in any proceedings to determine the right to deregulate under this section, from alleging that the franchisee has failed to correct any of the items of noncompliance alleged in the original notice given by the franchisor to the franchisee. The cable television system may request a hearing before the governing body of the franchisor, which hearing shall be conducted within 30 days of the governing body's receipt of a request therefor, and a decision thereon rendered within 15 days following conclusion of the hearing.

(3) If the franchisor transmits written notice pursuant to paragraph (2), the franchisor or the cable television system may file a breach of contract action for breach of the franchise agreement in a court of competent jurisdiction. All factual and legal issues shall be determined by civil procedures and under rules of evidence applicable to breach of contract actions. If it is finally determined that the cable television system fails to meet prescribed capacity, satellite-earth receiving station, or penetration ratio requirements, or to comply with material provisions of its franchise, the remedy therefor shall be a refund in the form of a monthly credit to the subscriber of an amount no greater than any increase in rates

obtained under this section, and resulting from and proportionate to such violation. The maximum number of monthly credits to subscribers shall be limited to the number of months during which the cable television system failed to meet prescribed capacity, satellite-earth receiving station, or penetration ratio requirements, or was in noncompliance with material provisions of its franchise. At the franchisor's option, this remedy may be utilized in lieu of any remedies provided for in the franchise. Notwithstanding a final determination that the cable television system fails to meet prescribed capacity, satellite-earth receiving station, or penetration ratio requirements, or to comply with the material provisions of its franchise, the cable television system may thereafter elect to be bound by the provisions of this section at the time of its compliance. The court may reserve jurisdiction to determine whether the cable television system has so complied and the date of such compliance.

(4) The alleged breaches of the material provisions of the franchise which may be considered in determining eligibility to deregulate shall be limited to those which (A) the franchisor has notified the franchisee of in writing within the one-year period immediately preceding the date of the election, (B) the franchisor has orally notified the franchisee of during the 6 months immediately preceding the date of the election, or (C) occurred within the 90 days immediately preceding the election to deregulate, if discovered within 20 days following the election to deregulate.

(h) (1) If at any time a cable television system, which has made an election pursuant to subdivision (a), (b), or (c), is not in compliance with subdivision (f), the franchisor shall notify the cable television system in writing of the alleged noncompliance, setting forth in detail the grounds therefor. Within 30 days of receipt of the notice, the cable television system shall respond in writing to the franchisor. The franchisor shall have 30 days from the receipt of the response within which to renew its earlier objections in writing to the cable television system, if the franchisor has reason to believe that no good cause exists for the system's failure to so comply with subdivision (f). The cable television system shall have 30 days from receipt of the second written notice within which to correct the alleged noncompliance.

(2) If the franchisor is not satisfied with the cable television system's attempts to correct its noncompliance within the 30-day period, the franchisor shall notify the cable television system in writing of its dissatisfaction within 30 days following the 30-day period allowed to correct the alleged noncompliance. If the franchisor does not provide such written notice within the 30-day period, it shall be barred, in any proceedings to determine the cable television system's compliance with subdivision (f), from alleging that the franchisee has failed to correct any of the items of noncompliance alleged in the original notice given by the franchisor to the franchisee.

(3) If the franchisor transmits written notice pursuant to

paragraph (2) of this subdivision, the franchisor or the cable television system may file a breach of contract action for breach of the franchise agreement in a court of competent jurisdiction. All factual and legal issues shall be determined by civil procedures and under rules of evidence applicable to breach of contract actions. If it is finally determined that the cable television system fails to so comply with subdivision (f), the sole remedy therefor shall be a refund in the form of a monthly credit to the subscriber of an amount no greater than any increase in rates obtained under this section. The maximum number of monthly credits to subscribers shall be limited to the number of months which elapsed from the date of the second written notice of noncompliance pursuant to paragraph (1) of this subdivision to the date the noncompliance is corrected. In no event, however, shall the refund reduce the cable system's rates to a confiscatory level below that which will enable the cable system to earn a reasonable rate of return on its investment.

(i) The franchisee may utilize any community service channel which is not used for community service programming so long as community service programming is given scheduling priority.

(j) The franchisor may elect to act as public trustee of the community service channel, to ensure the use of such channel or channels as community service channels.

(k) Neither the franchisor nor the franchisee shall be liable for acts arising from the use of such channel or channels by persons other than the franchisee. The franchisee shall establish regulations governing the use of such channels which provide uniform and nondiscriminatory standards, ensure adequate opportunity for participation by local nongovernmental users and incorporate restrictions on libelous or slanderous or illegal programs.

(*l*) No cable television system which has made an election under subdivision (a), (b), or (c) shall discriminate as to its rates, charges, and rate structures against any portion of a franchise area because that portion of the franchise area has poor broadcast television signal reception.

(m) For purposes of this section, the following definitions shall apply:

(1) "Basic service" means the lowest level of service offered by the system to individual household subscribers.

(2) "Cable television system" means a community antenna television system, under common ownership and control, serving a franchise area or two or more contiguous or electronically connected franchise areas.

(3) "Capacity" means the number of video channels capable of being carried by a cable television system, including optional services, irrespective of programming or lack thereof, or authority to carry any programming.

(4) "Consumer Price Index" means the most recently issued consumer price index published by the United States Bureau of Labor Statistics for the area in which the cable television system is

located or the nearest area for which such index is published.

(5) "Franchise" means any franchise or license granted pursuant to Section 53066, or any other authority, for the construction or operation of a cable television system.

(6) "Franchisor" means any city, county, or city and county, including any chartered city, county, or city and county, granting a franchise.

(7) "Satellite-earth receiving station" means any structure or device utilized to receive signals from a satellite.

(8) "Significantly viewed television station" means each station which: (A) is designated as such for the area by the Federal Communications Commission in its 1972 listing or any future such listings; or (B) satisfies the Federal Communications Commission requirements as to significantly viewed signals for the area as contained in the most recent Arbitron study; provided that in the event a cable television system has elected deregulation pursuant to clause (B) of paragraph (3) of subdivision (a), the franchisor may require the system to submit the results of a test demonstrating that a minimum of five stations have sufficient signal strength in the geographic area served by the cable television system to meet the Grade B contour testing procedures outlined in Section 73.683, et seq., of Title 47 of the Code of Federal Regulations (particularly subsection (c) of Section 73.686, "collection of field strength data to determine television service in specific communities") from the rules and regulations of the Federal Communications Commission. Such request by the franchisor shall be made within 30 days from receipt of the statement provided for in subdivision (d).

(9) "Subscriber penetration ratio" means the number of subscribing residences divided by the total number of residences having cable available. For the purposes of this definition, a "residence" is a single-family dwelling unit which is or would be billed directly by the cable television system on an individual subscriber basis.

(n) In the absence of like provisions in the franchise, if a franchisee elects deregulation pursuant to this section, the franchisor may institute the use of any of the following mechanisms:

(1) The legislative body or bodies having jurisdiction over the franchise area may establish procedures, by ordinance, providing for resolution of individual consumer complaints. Those procedures may include mediation procedures, arbitration procedures, procedures for escrowing the disputed portion of the individual consumer's monthly service payments during pendency of the dispute and prohibition of service disconnection to the complaining consumer during pendency of the dispute if the moneys are paid into such escrow accounts. The ordinance shall provide procedures for administrative hearings and appeals. The legislative body or bodies may appoint mediators, arbitrators, or other persons or bodies to resolve such disputes. The ordinance may contain a schedule of penalties for consumer complaints, but the penalty for an individual

complaint shall not exceed two hundred dollars ($200). Prior to enacting such an ordinance, the legislative body or bodies shall give the franchisee 15 days or more written notice of the franchisor's intent to enact the ordinance, together with an outline of the intended provisions or a copy of the proposed ordinance. If requested by the franchisee, the ordinance shall provide for three-person arbitration boards, with one arbitrator chosen by the franchisor, one by the franchisee, and the third arbitrator chosen by the first two arbitrators.

(2) The legislative body may, by ordinance, provide a schedule of penalties for violations of the material franchise terms, not to exceed five hundred dollars ($500) for each occurrence or series of related occurrences. Prior to enacting such an ordinance, the legislative body or bodies shall give the franchisee 15 days or more written notice of the franchisor's intent to enact the ordinance, together with an outline of the intended provisions or a copy of the proposed ordinance. Those penalties may be levied if the franchisor gives written notice to the franchisee to correct the breach, and the franchisee fails to correct the problem within a reasonable period of time after delivery of such notice. The franchisor may not levy such a penalty more than one year after the date it notifies the franchisee of the alleged franchise breach. The ordinance shall provide that if the franchisee objects to the penalty, in writing, to the franchisor, the franchisee and franchisor shall conduct arbitration in a manner mutually agreed upon, or in accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be final. The ordinance shall provide a limit on the time the franchisee has to object to a penalty, but the time limit may not be less than 60 days. The franchisor may require the franchisee to post a bond within 90 days of the franchisee's election to deregulate and require maintenance of the bond as a condition to continuing deregulation under this section. The bond may not exceed ten thousand dollars ($10,000) for each 5,000 subscribers or fraction thereof in the franchise area, with a maximum limit of fifty thousand dollars ($50,000).

(3) The franchisor may require in the ordinance that the franchisee provide written notice to each subscriber at intervals of not more than one year, of the consumer protection sanctions and procedures enacted pursuant to paragraph (1). The telephone number and address of the franchisee and franchisor to whom complaints may be directed shall be included in such notice.

(o) The Director of Consumer Affairs may, pursuant to the director's authority under Section 321 of the Business and Professions Code, receive and act upon subscriber complaints regarding cable television service, and may initiate action thereon as authorized by that section.

(p) While the development and the regulation of cable television is a matter of statewide concern, the Legislature finds and directs that the exercise of the police power of the State of California

concerning cable television should, except as otherwise directed by the Legislature, remain in the cities, counties, or cities and counties; and that the cable television companies and the cities, counties, or cities and counties should remain able, subject to the proper limits of that police power, to contract one with the other pursuant to the ordinary rules of, and subject to the ordinary remedies of, contract law; except that henceforth neither a cable television system nor a franchisor shall be entitled, with respect to any franchise agreement awarded or renewed on or after the effective date of amendments to this section enacted by the Statutes of 1982, to raise the defense of impairment of contract in any case where the due and proper exercise of police power, or the limits thereof, is at issue, and a provision to this effect shall be deemed to be incorporated in any such franchise agreements.

(q) This section, as amended by the Statutes of 1982, shall establish the state's preemption, under the terms and conditions prescribed herein, of the control and regulation of cable television subscriber rates, charges, and rate structures heretofore or hereinafter established by any franchisor pursuant to Section 53066, to the extent that such control or regulation is inconsistent with this section.

(r) This section shall cease to be operative on January 1, 1991, unless on or before such date its operative date is extended by the Legislature; except that rates, charges, and rate structures in effect on January 1, 1991, shall not be subject to reduction by a franchisor having rate reduction authority.

SEC. 3. Section 53066.2 is added to the Government Code, to read:

53066.2. With respect to the community service channels provided by cable television systems pursuant to Section 53066.1:

(a) The California Public Broadcasting Commission, in cooperation with the California Arts Council, the Office of Appropriate Technology, the State Department of Education and the State Department of Consumer Affairs, and such other agencies as requested by the commission, shall undertake efforts to encourage state and local government and educational use of the community service channel or channels and shall prepare a report by January 1, 1983, indicating the uses that government and educational agencies and community organizations have made of such channel or channels.

(b) The Regents of the University of California, if it so elects, the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges and the State Department of Education shall negotiate with representatives of cable television systems providing community service channels concerning appropriate provision for access to the community services channel or channels for educational agencies using such channels and shall implement by segment, or collectively, a program for the use of such community service channel or channels for educational purposes.

(c) This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 680

An act to add Section 22731 to the Education Code, and to amend Section 20816 of the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1982. Filed with Secretary of State August 30, 1982.]

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

SECTION 1. Section 22731 is added to the Education Code, to read:

22731. Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to members, who are state employees, if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order which shall specify such period.

(b) The appointing power, as defined in Section 18524, of the Government Code, transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The appointing power determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst, as to the specific economies that will be realized

were the additional service credit towards retirement granted.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age. The appointing power shall make the payment with respect to all eligible employees who retired pursuant to this section.

Any member who qualifies under this section, upon subsequent re-entry to the system shall forfeit the service credit acquired under this section.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

The benefit provided by this section shall not be applicable to the employees of any appointing power until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to subdivision (b).

The Director of Finance shall approve the transmittal of funds by the appointing power not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy thereof shall be forthwith transmitted to the chairperson of each appropriate policy committee.

The Legislative Analyst and the Department of Finance shall report to the Governor and the Legislature as of the first legislative day of each year, as to the extent to which economies realized under the provisions of this section have equaled the cost to agencies as estimated by the board.

SEC. 2. Section 20816 of the Government Code is amended to read:

20816. Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to state members, other than school members, if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days

commencing no sooner than the date of issuance of the Governor's executive order which shall specify such period.

(b) The appointing power, as defined in Section 18524, or the Board of Regents of the University of California or the Board of Trustees of the State University, transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The appointing power or the Board of Regents or the Board of Trustees determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the State Department of Finance and to the Office of Legislative Analyst, as to the specific economies that will be realized were the additional service credit towards retirement granted.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age. The appointing power or the Board of Regents or the Board of Trustees shall make such payment with respect to all eligible employees who retired pursuant to this section.

Any member who qualifies under this section, upon subsequent re-entry to the system shall forfeit the service credit acquired under this section.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

The benefit provided by this section shall not be applicable to the employees of any appointing power or the Board of Regents or the Board of Trustees until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to subdivision (c).

The Director of Finance shall approve the transmittal of funds by the appointing power or the Board of Regents or the Board of Trustees not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy thereof shall be forthwith transmitted to the chairperson of each

appropriate policy committee.

The Office of the Legislative Analyst and the Department of Finance shall report to the Governor and the Legislature as of the first legislative day of each year, as to the extent to which economies realized under the provisions of this section have equaled the cost to agencies as estimated by the board.

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

In order that this act shall become operative during the 1981–1982 fiscal year, it must take effect immediately.

CHAPTER 681

An act to amend Section 5250 of the Business and Professions Code, to amend Sections 1240.690 and 1245.210 of the Code of Civil Procedure, to amend Sections 39005, 39006, 39007, and 41964 of the Education Code, to amend Sections 11005, 11005.2, 11012, 11041, 11272, 26004, 29530, 54003, 65080, 65080.1, 65080.5, 66455, 66514, 66515, and 66521 of, to add Sections 14035.1, 14051, and 14502.5 to, and to repeal Sections 14008.5, 14009, 14010.5, and 66516 of, the Government Code, to amend Sections 2760, 2761, 2762, 2770, 2773, 2774, and 2780.1 of, and to add Section 2760.1 to, the Penal Code, to amend Section 13070 of the Public Resources Code, to amend Sections 21658, 21659, 21669.2, and 21688 of the Public Utilities Code, to amend Sections 8352.3 and 8352.4 of, and to repeal Section 8352.8 of, the Revenue and Taxation Code, to amend Sections 117, 118.6, 141, 160, 161, 162, 165, 166, 166.5, 167, 168, 191, 208, 213, 215.5, 216, 253.1, 253.5, 263.8, 307.2, 360, 374, 381, 391, 506, 559, 700, 820, 1712, 1754.5, 2104.1, 2107.6, 2118.5, 2544, 25034, 30100.5, 30306, 30352, 30353, 30884, 30885, 30886, 30887, and 30888 of, and to add Section 515 to, and to repeal Sections 3, 4, 156.7, 188.5, 195, 199.8, 221, 494, 2179, and 30608 of, the Streets and Highways Code, to amend Sections 21101, 22364, 23272, 35701, and 35712 of, to repeal Section 39010 of, and to repeal Chapter 14 (commencing with Section 23340) of Division 11 of, the Vehicle Code, to amend Section 1 of Chapter 1044 of the Statutes of 1970, and to amend Sections 62 and 64 of Chapter 161 of the Statutes of 1979, relating to transportation.

[Approved by Governor August 31, 1982. Filed with Secretary of State August 31, 1982.]

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

SECTION 1. Section 5250 of the Business and Professions Code is amended to read:

5250. The director may make orders and regulations for the

enforcement of this chapter and may authorize the Department of Transportation to enforce its provisions.

SEC. 2. Section 1240.690 of the Code of Civil Procedure is amended to read:

1240.690. (a) When property described in Section 1240.670 or 1240.680 is sought to be acquired for state highway purposes, and the property was dedicated or devoted to a use described in those sections prior to the initiation of highway route location studies, an action for declaratory relief may be brought by the public entity or nonprofit organization owning the property in the superior court to determine the question of which public use is the best and most necessary public use for the property.

(b) The action for declaratory relief shall be filed and served within 120 days after the California Transportation Commission has published in a newspaper of general circulation pursuant to Section 6061 of the Government Code, and delivered to the public entity or nonprofit organization owning the property a written notice that a proposed route or an adopted route includes the property. In the case of nonprofit organizations, the written notice need only be given to nonprofit organizations that are on file with the Registrar of Charitable Trusts of this state.

(c) In the declaratory relief action, the resolution of the California Transportation Commission is not conclusive evidence of the matters set forth in Section 1240.030.

(d) With respect to property described in Section 1240.670 or 1240.680 which is sought to be acquired for state highway purposes:

(1) If an action for declaratory relief is not filed and served within the 120-day period established by subdivision (b), the right to bring the action is waived and Sections 1240.670 and 1240.680 do not apply.

(2) When a declaratory relief action may not be brought pursuant to this section, Sections 1240.670 and 1240.680 do not apply.

SEC. 3. Section 1245.210 of the Code of Civil Procedure is amended to read:

1245.210. As used in this article, "governing body" means:

(a) In the case of a taking by a local public entity, the legislative body of the local public entity.

(b) In the case of a taking by the Sacramento and San Joaquin Drainage District, the State Reclamation Board.

(c) In the case of a taking by the State Public Works Board pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), the State Public Works Board.

(d) In the case of a taking by the Department of Fish and Game pursuant to Section 1348 of the Fish and Game Code, the Wildlife Conservation Board.

(e) In the case of a taking by the Department of Transportation (other than a taking pursuant to Section 21633 of the Public Utilities Code or Section 30100 of the Streets and Highways Code), the California Transportation Commission.

(f) In the case of a taking by the Department of Transportation pursuant to Section 21633 of the Public Utilities Code, the California Transportation Commission.

(g) In the case of a taking by the Department of Transportation pursuant to Section 30100 of the Streets and Highways Code, the California Transportation Commission.

(h) In the case of a taking by the Department of Water Resources, the California Water Commission.

(i) In the case of a taking by the University of California, the Regents of the University of California.

(j) In the case of a taking by the State Lands Commission, the State Lands Commission.

(k) In the case of a taking by Hastings College of Law, the board of directors of that college.

SEC. 4. Section 39005 of the Education Code is amended to read:

39005. To promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites, the governing board of each school district, including districts governed by a city board of education if the proposed site is within two miles, measured by air line, of that point on an airport boundary which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new school site or for an addition to a present site, shall give the Department of Education notice in writing of the proposed acquisition and shall submit any information required by the Department of Education.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport boundary which is nearest the site, the Department of Education shall notify the Department of Transportation, in writing, of the proposed acquisition. The Department of Transportation shall make an investigation and report to the Department of Education within 25 days after receipt of the notice. If the Department of Transportation is no longer in operation, the Department of Education shall, in lieu of notifying the Department of Transportation, notify the Civil Aeronautics Board or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the board or other agency any information or assistance that it may desire to give.

The Department of Education shall investigate the proposed site and, within 30 days after receipt of the notice, shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the Department of Education has been received. If the report does not favor the acquisition of the property for a school site or an addition to a present school site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general

circulation within the school district or, if there is no such newspaper, in a newspaper of general circulation within the county in which the property is located.

SEC. 5. Section 39006 of the Education Code is amended to read:

39006. Notwithstanding Section 39005, immediately after receiving notice of a proposed acquisition of property which is within two miles, measured by air line, of that point on an airport boundary which is nearest the site, the Department of Education shall notify the Department of Transportation, in writing, of the proposed acquisition. The Department of Transportation shall make an investigation and report to the Department of Education within 25 days after receipt of the notice. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed school site.

Notwithstanding Section 39005, if the report of the Department of Education required by that section does not favor the acquisition of the property for a school site, or an addition to a present school site, the governing body shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice by publication in a newspaper of general circulation within the school district or, if there is no such newspaper, in a newspaper of general circulation within the county in which the property is located.

SEC. 6. Section 39007 of the Education Code is amended to read:

39007. If, with respect to a proposed site located within two miles of an operative airport runway, the report of the Department of Education submitted to a school district governing board under Section 39005 or 39006 does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Department of Transportation, no state agency or officer shall grant, apportion, or allow to the school district for expenditure, in connection with that site, any state funds otherwise made available under any state law whatever for school site acquisition or school building construction, or for expansion of existing sites and buildings, and no funds of the school district or of the county in which the district lies shall be expended for those purposes, except that the provisions of this section shall not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

If the recommendation of the Department of Transportation is unfavorable, the recommendation shall not be overruled without the express approval of the Department of Education and the State Allocation Board.

SEC. 6.5. Section 41964 of the Education Code is amended to read:

41964. On or before each May 25th, the Superintendent of Public Instruction shall determine and certify to the Controller the amount of severance aid computed and to be allowed to school districts under

Section 41960 or 41961 for the fiscal year. On or before each June 15th, the Controller shall order the transfer, from the Motor Vehicle Transportation Tax Account in the Transportation Tax Fund to the State School Fund, of the amount of severance aid computed and to be allowed to school districts for the fiscal year as so certified, and the amount so computed and certified is hereby appropriated for purposes of the transfer. The Department of Transportation may charge or allocate to the appropriate particular projects on account of which severance aid was computed, the amounts so transferred. In the case of severance aid determined pursuant to Section 41961, the allowance shall be apportioned to the school district in two equal annual installments.

SEC. 7. Section 11005 of the Government Code is amended to read:

11005. Unless the Legislature specifically provides that approval is not required, every gift to the state of personal property, or every gift to the state of real property in fee or in any lesser estate or interest, shall be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest, entered into by or on behalf of the state, shall be approved by the Director of General Services. Any contract entered into in violation of this section is void. This section shall apply to any state agency which, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section. This section does not apply (1) to unconditional gifts of money, (2) to the acquisition or hiring by the Department of Transportation of real property in fee or in any lesser estate or interest for highway purposes, but does apply to the hiring by that department of office space in any office building, or (3) to contracts entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 8. Section 11005.2 of the Government Code is amended to read:

11005.2. Unless the Legislature specifically provides that approval by the Director of General Services is not required, every conveyance, contract, or agreement whereby an interest of the state in any real property is conveyed, demised, or let to any person, shall, before the conveyance, contract, or agreement is executed or entered into, be approved by the Director of General Services. Any conveyance, contract, or agreement executed or entered into in violation of this section is void. This section shall apply to any state agency which, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section.

This section does not apply to real property acquired by the Department of Transportation for highway purposes or real property administered by the State Lands Commission, the Controller, or the State Compensation Insurance Fund.

SEC. 9. Section 11012 of the Government Code is amended to read:

11012. Whenever any state agency, including, but not limited to, state agencies acting in a fiduciary capacity, is authorized to invest funds, or to sell or exchange securities, prior approval of the Department of Finance to the investment, sale, or exchange shall be secured.

Every state agency shall furnish the Department of Finance with the reports and in the form, relating to the funds or securities, their acquisition, sale, or exchange, as may be requested by the Department of Finance from time to time.

This section does not apply to the following state agencies:

(a) Any state agency when issuing or dealing in securities authorized to be issued by it.

(b) The State Treasurer.

(c) The Regents of the University of California.

(d) Employment Development Department.

(e) Department of Veterans Affairs.

(f) Hastings College of Law.

(g) Board of Administration of the Public Employees' Retirement System.

(h) State Compensation Insurance Fund.

(i) California Transportation Commission and Department of Transportation when acting in accordance with bond resolutions adopted under the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17 of the Streets and Highways Code) prior to September 15, 1945.

(j) Teachers' Retirement Board of the State Teachers' Retirement System.

SEC. 10. Section 11041 of the Government Code is amended to read:

11041. Sections 11042 and 11043 are not applicable to the Regents of the University of California, Legal Division of the Department of Transportation, Division of Labor Standards Enforcement, Workers' Compensation Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), and Department of Education, nor to any other state agency which, by law enacted after August of 1933, is authorized to employ legal counsel.

SEC. 11. Section 11272 of the Government Code is amended to read:

11272. In determining or redetermining the fair share, the State Board of Control may consider the factors of cost distribution and cost estimation as it deems necessary, except that, as to the proceeds of those taxes, the use of which is restricted by Article XIX of the California Constitution, the State Board of Control shall assess only those administrative costs ascertained as being necessarily incurred in connection with highway purposes as set forth in the article.

SEC. 13. Section 14008.5 of the Government Code is repealed.

SEC. 14. Section 14009 of the Government Code is repealed.

SEC. 15. Section 14010.5 of the Government Code is repealed.

SEC. 15.2. Section 14035.1 is added to the Government Code, to read:

14035.1. Notwithstanding Sections 14035 and 14038, state funds for the construction of new stations at locations not receiving rail service and the added operating costs of state-supported trains stopping at the new stations may not be expended on any route except as provided in this section. The construction of stations and the initiation of rail service to new stations shall follow the following priority:

(a) First priority shall be given to a proposed station stop located in a county along the rail route which has the fewest stations among all the counties along that rail route.

(b) Within each county, the priority of the station stop projects shall be determined on the basis of the projected ridership, with the station stop project having the highest ridership having the highest priority and the project with the least ridership having the lowest priority.

SEC. 15.5. Section 14051 is added to the Government Code, to read:

14051. At the commencement of each Regular Session of the Legislature, the department shall submit to the Legislature a report summarizing information required under, and programs authorized by, Sections 118.6, 216, and 820 of, Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of, and Chapter 4.6 (commencing with Section 2170) and Chapter 13 (commencing with Section 2540) of Division 3 of, the Streets and Highways Code.

Information on other program activities may be included in the biennial report at the discretion of the department.

SEC. 15.7. Section 14502.5 is added to the Government Code, to read:

14502.5. Notwithstanding any other provision of law, the Governor may appoint to the commission a member of the board of supervisors of a county in which there is a county transportation commission, which supervisor is not a member of that county transportation commission.

SEC. 16. Section 26004 of the Government Code is amended to read:

26004. The board of supervisors may install and maintain watering troughs along any state highway subject to agreement as to location with the Department of Transportation, and along any county road or stock trail in the county.

SEC. 17. Section 29530 of the Government Code is amended to read:

29530. If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit

in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of 1 percent pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the rate in excess of 1 percent and of the Secretary of the Business, Transportation and Housing Agency in administering the responsibilities assigned to him or her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

SEC. 18. Section 54003 of the Government Code is amended to read:

54003. An equestrian group may be granted the right to erect and maintain suitable trail markers for the convenience and guidance of horseback riders, but a structure shall not be erected on state-owned property without the approval of the State Lands Commission.

SEC. 19. Section 65080 of the Government Code is amended to read:

65080. (a) Except as provided in subdivisions (c) and (d), each transportation planning agency designated under subdivision (a) or (b) of Section 29532 shall prepare a regional transportation plan and a regional transportation improvement program directed at the achievement of a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, and aviation facilities and services. The plan shall be action-oriented and pragmatic considering both the short- and long-term future and shall present clear, concise policy guidance to local and state officials. The program shall support and be consistent with the plan. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, special districts, private organizations, and state and federal agencies.

(b) Each transportation planning agency shall adopt a regional transportation plan and, if it prepares a regional transportation improvement program, shall adopt a program. Prior to adoption, a public hearing shall be held, after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061. Prior to the adoption of the program, the governing body or the designated policy committee of the transportation planning agency shall consider the relationship between the program and the adopted plan. Each transportation planning agency shall adopt and submit annually, not later than April 1, an updated regional transportation improvement program as specified in Section 65082, and biennially, not later than November 1, an updated regional transportation plan

to the California Transportation Commission and the Department of Transportation.

(c) A transportation planning agency designated under subdivision (b) of Section 29532 may have the regional transportation plan for the area under its jurisdiction prepared by the Department of Transportation by adopting a resolution to that effect prior to July 1, 1978. In that case, Section 65080.5 shall be applicable to the agency.

(d) The regional transportation improvement program shall be prepared and adopted only by the transportation planning agencies and by county transportation commissions representing urbanized areas of 50,000 or more in population. The department shall prepare the programs, on a state transportation district basis, for all other areas of the state.

SEC. 20. Section 65080.1 of the Government Code is amended to read:

65080.1. Once preparation of a regional transportation plan has been commenced by or on behalf of a designated transportation planning agency, the Secretary of the Business, Transportation and Housing Agency shall not designate a new transportation planning agency pursuant to Section 29532 for all or any part of the geographic area served by the originally designated agency unless he or she first determines that redesignation will not result in the loss to California of any substantial amounts of federal funds.

SEC. 21. Section 65080.5 of the Government Code is amended to read:

65080.5. (a) For each area for which a transportation planning agency is designated under subdivision (c) of Section 29532, or adopts a resolution pursuant to subdivision (c) of Section 65080, the Department of Transportation, in cooperation with the transportation planning agency, and subject to subdivision (e), shall prepare the regional transportation plan, and the updating thereto, for that area and submit it to the governing body or designated policy committee of the transportation planning agency for adoption. Prior to adoption, a public hearing shall be held, after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061. Prior to the adoption of the regional transportation improvement program by the transportation planning agency if it prepared the program, the transportation planning agency shall consider the relationship between the program and the adopted plan. The adopted plan and program, and the updating thereto, shall be submitted to the California Transportation Commission and the department pursuant to subdivision (b) of Section 65080.

(b) In the case of a transportation planning agency designated under subdivision (c) of Section 29532, the transportation planning agency may prepare the regional transportation plan for the area under its jurisdiction pursuant to this chapter, if the transportation planning agency, prior to July 1, 1978, adopts by resolution a

declaration of intention to do so.

(c) In those areas that have a county transportation commission created pursuant to Section 130050 of the Public Utilities Code, the multicounty designated transportation planning agency, as defined in Section 130004 of that code, shall prepare the regional transportation plan and the regional transportation improvement program in consultation with the county transportation commissions.

(d) Any transportation planning agency which did not elect to prepare the initial regional transportation plan for the area under its jurisdiction, may prepare the updated plan if it adopts a resolution of intention to do so at least one year prior to the date when the updated plan is to be submitted to the California Transportation Commission.

(e) If the department prepares or updates a regional transportation improvement program or regional transportation plan, or both, pursuant to this section, the state-local share of funding the preparation or updating of the plan and program shall be calculated on the same basis as though the preparation or updating were to be performed by the transportation planning agency and funded under Sections 99311, 99313, and 99314 of the Public Utilities Code.

SEC. 22. Section 66455 of the Government Code is amended to read:

66455. The Department of Transportation may file with the legislative body of any local agency having jurisdiction, a map or an amended map of any territory within one mile on either or both sides of any state highway routing in which territory it believes the subdivision would have an effect upon an existing state highway or a future state highway, the route of which has been adopted by the California Transportation Commission.

The city or county having jurisdiction shall issue a receipt for the territorial map and shall transmit, within three days of receipt, to the district office of the department in which the proposed subdivision is located, one copy of each tentative map of any subdivision located, in whole or in part, within the territory outlined on the territorial map.

The department, within 15 days after receiving a copy of the map, may make recommendations to the local agency regarding the effect of the proposed subdivision upon the highway or highway route.

SEC. 23. Section 66514 of the Government Code is amended to read:

66514. The construction of any transbay bridge in the region shall not be commenced without the approval of the commission. This section shall not apply to modifications of existing bridges, except modifications which provide for the construction of additional lanes of traffic on existing bridges or for the construction of rapid transit facilities on existing bridges.

SEC. 24. Section 66515 of the Government Code is amended to read:

66515. No public multicounty transit system using an exclusive right-of-way which is proposed to be constructed within the region shall be constructed or operated without the approval of the commission.

SEC. 25. Section 66516 of the Government Code is repealed.

SEC. 26. Section 66521 of the Government Code is amended to read:

66521. (a) It is the intention of the Legislature that the federal government, the state, and local agencies in the region will participate in support of the commission. The Legislature further intends that financial support of the activities of the commission will be made available from federal, state, and local sources normally available for transportation and general planning purposes in the region.

(b) The commission and the Business, Transportation and Housing Agency shall negotiate contracts or agreements whereby federal-aid highway funds available for planning, and the necessary state matching funds from the State Highway Account in the State Transportation Fund, may be made available for support of the activities of the commission insofar as they relate to highway, road, and street planning for the region.

(c) The commission shall also negotiate, either directly or through the Office of Planning and Research or other appropriate agency, with the United States Department of Housing and Urban Development for grants or contributions of federal funds which may be available to support the study and planning activities of the commission.

(d) The commission shall negotiate equitable agreements with the City and County of San Francisco, and other counties and cities within the region, the Association of Bay Area Governments, the San Francisco Bay Area Rapid Transit District, the Alameda-Contra Costa Transit District, and the Golden Gate Bridge, Highway and Transportation District for the contribution of funds or services for the general support of the activities of the commission and for required matching of federal funds as may be made available. Any county, city and county, or city may use its apportionments from the Motor Vehicle License Fee Account in the Transportation Tax Fund for these purposes.

SEC. 28. Section 2760 of the Penal Code is amended to read:

2760. The department may employ or cause to be employed, prisoners confined in the state prisons in the construction, improvement, and maintenance of any state highway.

SEC. 29. Section 2760.1 is added to the Penal Code, to read:

2760.1. "Department," as used in this article, means the Department of Transportation.

SEC. 30. Section 2761 of the Penal Code is amended to read:

2761. The Director of Corrections shall determine which prisoners shall be eligible for employment by the department in the construction, improvement, and maintenance of state highways, and

shall establish lists of prisoners eligible for that employment. Upon the requisition of the department, the Director of Corrections shall send to the place, and at the time designated, the number of prisoners requisitioned or the number thereof as have been determined to be eligible for employment and are available.

The director may return to prison any prisoner transferred to camp pursuant to this section, when the need for the prisoner's labor has ceased or when the prisoner is guilty of any violation of the rules and regulations of the prison or camp.

SEC. 31. Section 2762 of the Penal Code is amended to read:

2762. The department shall fix the rate to be expended for the labor at an amount not to exceed three dollars and fifty cents ($3.50) per day for each day which each convict actually performs labor upon the construction, improvement, or maintenance of a state highway, and shall monthly set aside funds to pay for the labor. The department shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days the convict actually performed labor during the month. The account shall be debited monthly with the convict's proportionate share of all expenses of camp maintenance, including the expenses for food, medicine, medical attendance, and clerical and accounting personnel, and the expenses necessary to maintain care and welfare facilities such as camp hospital for first aid, barber shop, and cobbler shop, and the convict's personal expenses covering his drawings from the commissary for clothing, toilet articles, tobacco, candy, and other personal items. The charge for camp maintenance may be made at a standard rate determined by the department to be adequate to cover all expenses and shall be adjusted periodically at the discretion of the department as needs of the camp require. No charge shall be made against the account for the costs of transporting prisoners to and from prison and camp or for the expense of guarding prisoners, which items shall be paid by the Department of Corrections from appropriations made for the support of the Department of Corrections. The net credits to each convict's account shall not be permitted to exceed an average of seventy-five cents ($0.75) per day for each day of actual work performed in the road camp.

The department, in computing the debits to be made to the convict's accounts, may add an amount not to exceed 10 percent on all items.

SEC. 32. Section 2770 of the Penal Code is amended to read:

2770. The department shall designate and supervise all road work done under the provisions of this article. It shall provide, supervise, and maintain necessary camps and commissariat.

SEC. 33. Section 2773 of the Penal Code is amended to read:

2773. The Director of Corrections, with the approval of the Department of Finance, is hereby authorized to transfer to the control of the department an amount or amounts of money, not to exceed one hundred thousand dollars ($100,000), which may be

available from the appropriation for the support of institutions under the jurisdiction of the Department of Corrections, by reason of the transfer of inmates from the institutions to prison road camps, to be used by the department for the purpose of paying the compensation of prisoners in accordance with this article.

SEC. 34. Section 2774 of the Penal Code is amended to read:

2774. Upon receipt of a certified copy of an order of the Director of Corrections, with the approval of the Department of Finance, authorizing the transfer, the Controller shall transfer to the control of the department the amount or amounts prescribed in the order, which shall be available for the purposes specified in Section 2773.

SEC. 35. Section 2780.1 of the Penal Code is amended to read:

2780.1. Money received from the rendering of services under the prison camp work program shall be paid to the State Treasurer monthly and shall be credited to the support appropriation of the prison rendering the services, in augmentation thereof. The appropriation to be credited shall be the appropriation current at the time of rendering the services. Nothing in this section shall apply to prison road camps established under Article 4 (commencing with Section 2760), except that, by mutual agreement between the department and the Department of Corrections, subject to the approval of the Department of Finance, the prison road camps may be administered, instead, under Article 5 (commencing with Section 2780).

SEC. 36. Section 13070 of the Public Resources Code is amended to read:

13070. The district may acquire, construct, maintain, and operate property, works, and facilities for any one or more of the following purposes:

(a) To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.

(b) The collection, treatment, or disposal of sewage, waste, and storm water of the district and its inhabitants.

(c) Protection against fire.

(d) Comprehensive planning for the physical growth of the area within the district.

(e) The collection or disposal of garbage or refuse matter.

(f) Public recreation by means of parks, including, but not limited to, acquatic parks and recreational harbors, playgrounds, golf courses, swimming pools, or recreation buildings for all-year recreation, including, but not limited to, facilities for public and private meetings, and other public squares and places.

(g) Street lighting.

(h) Mosquito abatement.

(i) The equipment and maintenance of a police department or other police protection to protect and safeguard life and property.

(j) The opening, widening, extending, straightening, and surfacing, in whole or part, of any street in the district, subject to the

consent of the Department of Transportation, with respect to state highways, and local authorities, as defined in Section 385 of the Vehicle Code, with respect to highways under their jurisdiction.

(k) The construction and improvement of bridges, culverts, curbs, gutters, drains, and works incidental to the purposes specified in subdivision (j), subject to the consent of the Department of Transportation, with respect to state highways, and local authorities, as defined in Section 385 of the Vehicle Code, with respect to highways under their jurisdiction.

(*l*) The construction and maintenance of parking facilities and other transportation facilities.

SEC. 37. Section 21658 of the Public Utilities Code is amended to read:

21658. No public utility shall construct any pole, pole line, distribution or transmission tower, or tower line, or substation structure in the vicinity of the exterior boundary of an aircraft landing area of any airport open to public use, in a location with respect to the airport and at a height so as to constitute an obstruction to air navigation, as an obstruction is defined in accordance with Part 77 of the Federal Aviation Regulations, Federal Aviation Administration, or any corresponding rules or regulations of the Federal Aviation Administration, unless the Federal Aviation Administration has determined that the pole, line, tower, or structure does not constitute a hazard to air navigation. This section shall not apply to existing poles, lines, towers, or structures or to the repair, replacement, or reconstruction thereof if the original height is not materially exceeded and this section shall not apply unless just compensation shall have first been paid to the public utility by the owner of any airport for any property or property rights which would be taken or damaged hereby.

SEC. 38. Section 21659 of the Public Utilities Code is amended to read:

21659. No person shall construct any structure or permit any natural growth to grow within one statute mile of the exterior boundary of any airport open to public use at a height so as to constitute a hazard to air navigation, as a hazard to air navigation is defined in accordance with Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, unless a permit allowing the construction or growth is issued by the department. The permit shall not be required if the Federal Aviation Administration has determined that the construction or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. This section shall not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility. The foregoing exceptions to this section shall continue, however, to be subject to Section 21658.

SEC. 39. Section 21669.2 of the Public Utilities Code is amended to read:

21669.2. In its deliberations, the department shall be governed by

the following guidelines:

(a) Statewide uniformity in standards of acceptable airport noise need not be required, and the maximum amount of local control and enforcement shall be permitted.

(b) Due consideration shall be given to the economic and technological feasibility of complying with the standards promulgated by the department.

SEC. 40. Section 21688 of the Public Utilities Code is amended to read:

21688. (a) No payments shall be made from the Aeronautics Account for expenditure on any airport or for the acquisition or development of any airport, if the department determines that the height restrictions around the airport are inadequate to provide reasonable assurance that the landing and taking off of aircraft at the airport will be conducted without obstruction or will be otherwise free from hazards.

Height restrictions shall be considered adequate if as a minimum they meet the obstruction standards of subchapter C of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, as these standards apply to civil airport imaginary surfaces related to runways.

The airport-owning entity shall have sufficient control over obstructions in the airspace in the vicinity of the airport to assure that height restrictions can be maintained. This control may be in the form of ownership of any land from which obstructions may rise, air navigation easements to guarantee maintenance of restrictions, or height limitation or land use zoning which will prohibit obstructions which would violate the obstruction standards.

(b) This section shall not prevent or prohibit the department from assisting any public agency or public entity in planning airport development or in planning the zoning needs around an airport.

SEC. 41. Section 8352.3 of the Revenue and Taxation Code is amended to read:

8352.3. Subject to Sections 8352 and 8352.1, there shall be transferred to the Aeronautics Account in the State Transportation Fund all moneys deposited to the credit of the Motor Vehicle Fuel Account attributable to the distribution of motor vehicle fuel for use or used in propelling an aircraft in the state, for allocation as follows:

(a) To pay the refunds authorized by Section 8101.5.

(b) To pay the pro rata cost of the Controller and the board under subdivisions (b), (c), and (d) of Section 8352.1.

(c) To pay for the support of the Division of Aeronautics of the Department of Transportation.

(d) Remaining balance to be available for the California Aid to Airports Program.

SEC. 42. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. Subject to Sections 8352 and 8352.1, there shall be transferred from the money deposited to the credit of the Motor

Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor Vehicle Fuel License Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

When deemed necessary by the Department of Transportation and the Department of Boating and Waterways, the Department of Transportation, after consultation with the Department of Boating and Waterways, shall prepare, or cause to be prepared, an updated report setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The Department of Transportation shall submit the report to the Legislature upon its completion.

SEC. 43. Section 8352.8 of the Revenue and Taxation Code is repealed.

SEC. 44. Section 3 of the Streets and Highways Code is repealed.

SEC. 45. Section 4 of the Streets and Highways Code is repealed.

SEC. 46. Section 117 of the Streets and Highways Code is amended to read:

117. Unless otherwise specifically provided in the instrument conveying title, the acquisition by the department of any right-of-way over any real property for state highway purposes, includes the right of the department to issue, under Chapter 3 (commencing with Section 660), permits for the location in the right-of-way of any structures or fixtures necessary to telegraph, telephone, or electric power lines or of any ditches, pipes, drains, sewers, or underground structures.

SEC. 46.5. Section 118.6 of the Streets and Highways Code is amended to read:

118.6. The department shall, to the greatest extent possible, offer to sell or exchange excess real property within one year from the date that it is determined by the department to be excess.

"Excess real property," for the purposes of this section, means all land and improvements situated outside of calculated highway right-of-way lines not needed or used for highway or other public purposes, including, but not limited to, those leased to public agencies pursuant to Section 104.15, and available for sale or exchange.

The department shall adopt rules and regulations to determine which real property outside of calculated right-of-way lines is no longer needed or used for highway or other public purposes, and which is available for sale or exchange. The department is authorized to lease all real property not presently needed or used for highway purposes pending the sale or exchange of such property.

Excess real property which consists of lands of notable environmental value, such as, but not limited to, lands of extraordinary scenic beauty, lands fronting on waterway, lakes, and marshes, lands within the boundaries of parks, recreational areas, wildlife preserves or refuges, and lands providing wildlife habitat shall first be offered for sale or exchange to public agencies operating parks and recreational areas as follows:

(a) To any park or recreation department of any city within which the land may be situated.

(b) To any park or recreation department of the county within which the land is situated.

(c) To any regional park authority having jurisdiction within the area in which the land is situated.

(d) To the State Resources Agency or any agency which may succeed to its powers.

The public agency desiring to purchase such land for park or recreation use shall notify the department within 60 days of its intent to purchase the land after receipt of the department's notification of intent to sell the land. If the public agency desiring to purchase the land and the department are unable to arrive at a mutually satisfactory sales price for the land during the 60-day period, the land may be disposed of in the normal manner.

The failure of the department to first offer excess real property which consists of lands of notable environmental value to public agencies operating parks and recreational areas shall not affect the validity of any conveyance of such excess real property to any person or entity unaware of the failure of the department to do so; however, this shall in no way be construed as releasing the department from its responsibility in offering such property to such public agencies first.

SEC. 47. Section 141 of the Streets and Highways Code is amended to read:

141. In addition to the other powers relating to state highways granted to it by laws, the department may do all of the following:

(a) Make investigations to place, at the service of the state, the most approved method of highway construction, improvement, and maintenance.

(b) Compile statistics relative to the highways of the various counties and cities and of the districts formed to construct, improve, or maintain the highways.

(c) Determine the methods of highway construction, improvement, and maintenance best adapted to the various sections of the state, and the best methods of construction, improvement, and maintenance of highways, making experiments with respect thereto from time to time.

(d) Call upon any state, county, city, or district official to furnish any information the official has relating to, or is in any way necessary to the proper performance of, the highway work of the department. The official shall furnish the information without charge.

(e) Join associations of highway and transportation officials of other states and others which have been established for not less than 10 years, having as their purpose the interchange of information relating to highway construction, improvement, maintenance, and administration and other transportation matters.

(f) Direct any of its officers or employees to travel to places outside this state at state expense for the purposes, and when approved, as provided in Section 11032 of the Government Code.

SEC. 47.5. Section 156.7 of the Streets and Highways Code is repealed.

SEC. 48. Section 160 of the Streets and Highways Code is amended to read:

160. The width of the right-of-way for all state highways shall be at least 40 feet.

The department may maintain any state highway having a lesser width of right-of-way, but shall not expend any money thereon for major construction or improvement until the width of the right-of-way is at least 40 feet.

SEC. 49. Section 161 of the Streets and Highways Code is amended to read:

161. On construction projects, the department shall install on the surface of state highways upon which the operation of bicycles is permitted only those types of grates which are not hazardous to bicycle riders.

SEC. 50. Section 162 of the Streets and Highways Code is amended to read:

162. (a) Unless the commission finds that it would be impractical, any state highway exclusive and preferential lane for buses and other high occupancy vehicles constructed on new alignment or new structures shall be designed and constructed on horizontal and vertical alignments, including the grade, curvature, and horizontal and vertical clearances, so that the lane may readily be reconstructed as an exclusive public mass transit guideway, using the department's rail transit design criteria.

(b) Notwithstanding subdivision (a), prior to designing a state highway in conformance with this section, the department shall consider all of the following:

(1) Cost effectiveness.

(2) Any added environmental impact.

(3) The likelihood of a guideway project ever being developed.

SEC. 51. Section 165 of the Streets and Highways Code is amended to read:

165. The department shall prepare and submit to the Governor a proposed budget. The department shall include, within the proposed budget, the portion of that budget that is to be funded from the State Highway Account.

The department shall inform the commission of all pertinent assumptions and policy directions it intends to use in preparing the budget. This information shall be forwarded to the commission as soon as available. The commission shall review the assumptions and policy directions used in preparing the budget and forward its comments and recommendations to the department.

SEC. 52. Section 166 of the Streets and Highways Code is amended to read:

166. The portion of the proposed budget to be funded from the State Highway Account shall be included in the printed fiscal year budget submitted to the Legislature. The degree of detail contained in the portion of the proposed budget shall be established jointly by the Department of Transportation and the Department of Finance. That portion of the proposed budget shall be, for the State Highway Account, the complete and detailed budget as required by Section 13320 of the Government Code. In case of inconsistency between that section and this article, the provisions of this article shall control.

Notwithstanding Section 13321 of the Government Code, the Department of Transportation, in administering the budget of the State Highway Account, shall be responsible for determining the expenditures or incurrence of obligations by quarter or other period of the fiscal year.

SEC. 53. Section 166.5 of the Streets and Highways Code is amended to read:

166.5. In order to support its proposed budgets and to improve its program management, the Department of Transportation shall develop budgeting, accounting, fiscal control, and management information systems to provide at least the following information:

(a) Documentation and control of positions and personnel services expenditures.

(b) Accounting and reporting of revenues and expenditures on a basis generally consistent with provisions of the Government Code.

These systems shall be developed to better inform the Legislature so that responsible legislative oversight of the program and budget of the Department of Transportation would be possible. These systems shall recognize the special characteristics of the department's program.

Development of these systems shall be closely coordinated with the Department of Finance, the Joint Legislative Budget Committee, the Committees on Transportation of the Senate and Assembly, the Subcommittee on General Government and Transportation of the Senate Committee on Finance, and the Subcommittee on Resources and Transportation of the Assembly Committee on Ways and Means.

SEC. 54. Section 167 of the Streets and Highways Code is amended to read:

167. With respect to the funds in the State Highway Account, the proposed budget shall be organized on a program basis. The proposed budget shall list the proposed expenditures for the highway program under the following program elements:

(a) Administration.
(b) Program development.
(c) Maintenance.
(d) Operation.
(e) Rehabilitation.
(f) Operational improvements.
(g) New facilities.
(h) Local assistance.

The basis for defining major and minor capital outlay projects shall be established by the commission.

SEC. 55. Section 168 of the Streets and Highways Code is amended to read:

168. During the fiscal year, the department, with the approval of the commission, may transfer funds appropriated from the State Highway Account between programs and between program elements.

Transfers shall not decrease the amount of funds to be expended for any programs or program elements by more than 10 percent of the total amount appropriated and identified in the appropriation schedules.

Transfers may only be made with the approval of the commission and the Director of Finance and after submitting a five-day notice of intent to make the transfers to the chairman of Senate Finance Committee and the Assembly Ways and Means Committee and to the Chairman of the Joint Legislative Budget Committee.

SEC. 57. Section 188.5 of the Streets and Highways Code is repealed.

SEC. 58. Section 191 of the Streets and Highways Code is amended to read:

191. Prior to each July 15, the department shall prepare and forward to the Controller a report identifying the amounts to be deducted from the allocations under Sections 2104 and 2107 as provided in Sections 2104.1 and 2107.6. The amounts shall be a proration of five million dollars ($5,000,000), less the federal subventions for grade separation projects included in allocations made pursuant to Chapter 8 (commencing with Section 2400) of

Division 3 in the preceding fiscal year in excess of three million dollars ($3,000,000). The proration shall be based on the ratio that grade separation allocations to cities, and grade separation allocations to counties, bears to the total allocations in the preceding fiscal year.

SEC. 59. Section 195 of the Streets and Highways Code is repealed.

SEC. 60. Section 199.8 of the Streets and Highways Code is repealed.

SEC. 61. Section 208 of the Streets and Highways Code is amended to read:

208. The Controller shall, from time to time, determine whether any portion of the money or investment in the Department of Motor Vehicles Uncleared Collections Account in the Special Deposit Fund is not necessary for immediate use and, if so, the amount thereof shall thereupon be designated as "available money." On demand of the Department of Transportation from time to time, the amounts demanded, not exceeding ten million dollars ($10,000,000) in the aggregate, shall, on order of the Controller, be transferred to the State Highway Account from the "available money" and shall be available for the acquisition of properties to constitute rights-of-way for state highway purposes. On demand of the Controller, the money shall be retransferred to the Department of Motor Vehicles Uncleared Collections Account.

SEC. 62. Section 213 of the Streets and Highways Code is amended to read:

213. The commission shall cause to be filed and published, in accordance with Chapter 4.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, copies of the procedural resolution. All revisions made subsequent to the time of filing of the first resolution shall be filed and published in the same manner. In addition to the filing and publication, the department and the commission shall furnish copies of the procedural resolutions to any person or organization requesting them.

SEC. 63. Section 215.5 of the Streets and Highways Code is amended to read:

215.5. (a) The department shall develop and implement a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the California freeway and expressway system. The priority system shall include as criteria the existing and future intensity of sound generated by the freeway.

(b) When all freeways have been ranked in priority order, the department shall, consistent with available funding, include in its proposed state transportation improvement program a program of construction of noise attentuation barriers beginning with the highest priority.

(c) If any city or county construct a sound attenuation barrier along a freeway using public funds prior to the time that the barrier reaches a high enough priority for state funding, then, when the

funding priority is reached, the department shall reimburse the city or county without interest for the cost of the construction when constructed, but the reimbursement may not exceed the cost of the department to construct the barrier. Reimbursement shall be made only if the city or county constructs the sound attenuation barrier to the standards approved by department, follows bidding and contracting procedures approved by the department, and the project is approved by the commission.

SEC. 63.5. Section 216 of the Streets and Highways Code is amended to read:

216. The noise level produced by the traffic on, or by the construction of, a state freeway shall be measured in the classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services of a public or private elementary or secondary school if the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services were constructed prior to the award of the initial construction contract for the freeway route and prior to January 1, 1974, or were constructed after December 31, 1973, and were constructed prior to the issuance of a statement of present and projected noise levels of the freeway route by the department pursuant to subdivision (g) of Section 65302 of the Government Code, and are being used for the purpose for which they were constructed.

The measurements shall be made at appropriate times during regular school hours and shall not include noise from sources that exceed the maximum permitted by law.

If the noise level produced from the freeway traffic, or the construction of the freeway, exceeds 50 decibels on the "A" scale, the department shall undertake a noise abatement program in any such classroom, library, multipurpose room, or space used for pupil personnel services to reduce the freeway traffic noise level therein to 50 or fewer decibels on the "A" scale by, but not limited to, installing acoustical materials, eliminating windows, installing air conditioning, or constructing sound baffle structures.

If the department determines that the construction of the freeway will result in a noise level exceeding 50 decibels on the "A" scale, the department shall complete the temporary or permanent noise abatement program prior to commencing such construction, or as soon as practicable thereafter.

If it becomes necessary to convert the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services to other school-related purposes because the freeway traffic noise level therein exceeds 50 decibels on the "A" scale, the department shall pay the cost of the conversions.

If the noise level generated from sources within and without the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services exceeds 50 decibels on the "A" scale prior to construction of the freeway and the noise from the freeway, or the construction thereof, also exceeds 50 decibels on the "A" scale, the

department shall be required to undertake a noise abatement program that will reduce the noise to its preconstruction level.

Priority for noise abatement programs shall be given to those public and private elementary and secondary classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services constructed in conformance with Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 of Division 3 of Title 2 of the Education Code.

As used in this section, the "A" scale means the "A" weighting described in Section 3.1 of the American National Standard specification for sound level meters, S1.4-1971, approved April 27, 1971, and published by the American National Standards Institute.

SEC. 64. Section 221 of the Streets and Highways Code is repealed.

SEC. 64.2. Section 253.1 of the Streets and Highways Code is amended to read:

253.1. The California freeway and expressway system shall include:

Routes 5, 6, 7, 8, 10, 14, 15, 18, 24, 28, 30, 32, 34, 37, 40, 44, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 65, 67, 68, 70, 71, 73, 74, 78, 80, 81, 83, 85, 87, 88, 89, 90, 93, 97, 100, 102, 105, 107, 108, 118, 121, 122, 124, 125, 126, 133, 134, 136, 139, 140, 141, 145, 148, 149, 154, 156, 157, 161, 163, 164, 171, 179, 181, 183, 184, 199, 205, 208, 210, 215, 217, 221, 223, 230, 232, 234, 235, 237, 238, 239, 242, 247, 249, 251, 252, 256, 257, 258, 259, 280, 330, 371, 380, 405, 505, 580, 605, 680, 780, 805, and 980 in their entirety.

SEC. 64.4. Section 253.5 of the Streets and Highways Code is amended to read:

253.5. The California freeway and expressway system shall also include:

Route 79 from:

(a) Route 8 near Descanso to Route 78.

(b) Route 371 near Aguanga to Route 15 near Temecula.

(c) Route 15 near Temecula to Route 74 near Hemet.

(d) Route 74 near Hemet to Route 10 near Beaumont.

Route 84 from:

(a) The westerly approach to the Dumbarton Bridge to Route 238.

(b) Route 680 near Scotts Corners to Route 580.

(c) Route 580 to Route 4 near Brentwood.

(d) Route 12 at Rio Vista to Route 50 near Broderick.

Route 86 from Route 78 near Brawley to Route 10 near Indio.

Route 91 from Route 405 to Route 215 near Riverside.

Route 92 from:

(a) Route 1 near Half Moon Bay to Route 280.

(b) Route 280 to Route 238.

Route 94 from Route 5 near San Diego to Route 54 near Jamacha Road.

Route 95 from Route 10 near Blythe to Route 40 near Needles.

Route 99 from:

(a) Route 5 south of Bakersfield to Route 50 in Sacramento.
(b) Route 5 in Sacramento to Route 20.
(c) Route 20 to Route 5 near Red Bluff.

Route 101 from:

(a) Route 5 near Seventh Street in Los Angeles to near Fell Street in San Francisco.
(b) A point in Marin County opposite San Francisco to the Oregon state line north of Crescent City.

Route 110 from Route 47 to Colorado Boulevard in Pasadena.

SEC. 64.6. Section 263 8 of the Streets and Highways Code is amended to read:

263.8. The state scenic highway system shall also include:

Route 198 from:

(a) Route 101 near San Lucas to Route 33 near Coalinga.
(b) Route 33 near Oilfields to Route 5.
(c) Route 99 near Goshen to the Sequoia National Park line.

Route 210 from Route 5 near Tunnel Station to Route 134.

Route 215 from Route 74 near Romoland to Route 74 near Perris.

Route 280 from Route 17 in Santa Clara County to Route 80 near First Street in San Francisco.

Route 299 from:

(a) Route 101 near Arcata to Route 96 near Willow Creek.
(b) Route 3 near Weaverville to Route 5 near Redding.
(c) Route 89 near Burney to Route 139 near Canby.

Route 395 from Route 14 near Little Lake to Route 89 near Coleville.

Route 680 from the Santa Clara-Alameda County line to Route 24 in Walnut Creek.

SEC. 65. Section 307.2 of the Streets and Highways Code is amended to read:

307.2. If the Cities of Los Angeles, Pasadena, and South Pasadena, and the Los Angeles County Transportation Commission reach an agreement by January 1, 1983, as to the location to be adopted for the portion of Route 7 between Routes 10 and 210, the department shall take the necessary steps to remove that portion of Route 7 from the federal aid urban system and place it in the federal aid primary system.

SEC. 65.1. Section 360 of the Streets and Highways Code is amended to read:

360. Route 60 is from:

(a) Route 10 near the Los Angeles River in Los Angeles to Route 215 via Pomona and Riverside.
(b) Route 215 to Route 10 near Beaumont.

SEC. 65.2. Section 374 of the Streets and Highways Code is amended to read:

374. Route 74 is from:

(a) Route 5 near San Juan Capistrano to Route 15.
(b) Route 15 to Route 215 near Perris.
(c) Route 215 near Perris to Route 10 near Indio.

SEC. 65.3. Section 381 of the Streets and Highways Code is amended to read:

381. Route 81 is from Route 215 east of Riverside to Route 15 south of Devore.

SEC. 65.4. Section 391 of the Streets and Highways Code is amended to read:

391. Route 91 is from Route 1 near Hermosa Beach to Route 215 via Santa Ana Canyon.

SEC. 65.5. Section 494 of the Streets and Highways Code is repealed.

SEC. 65.6. Section 506 of the Streets and Highways Code is amended to read:

506. Route 206 is from Route 30 in San Bernardino via Little Mountain to Route 215 near Verdemont.

SEC. 65.7. Section 515 is added to the Streets and Highways Code, to read:

515. Route 215 is from Route 15 near Temecula to Route 15 near Devore via San Bernardino and passing near Riverside.

SEC. 65.8. Section 559 of the Streets and Highways Code is amended to read:

559. Route 259 is from Route 215 to Route 30 in San Bernardino.

SEC. 66. Section 700 of the Streets and Highways Code is amended to read:

700. (a) "Person," in addition to the definition in Section 19, includes any city, county, public corporation, or public district.

(b) "Utility facility" means any pole, poleline, pipe, pipeline, conduit, cable, aqueduct, or other structure or appurtenance thereof used for public or privately owned utility services or used by any mutual organization supplying water or telephone service to its members.

(c) "Utility" means any person maintaining any utility facility.

(d) "Freeway" includes any toll bridge, including approaches, under the jurisdiction of the commission.

SEC. 66.5. Section 820 of the Streets and Highways Code is amended to read:

820. The State of California assents to the provisions of Title 23 of the United States Code, as amended and supplemented, other acts of Congress relative to federal aid, or other cooperative highway work, or to emergency construction of public highways with funds apportioned by the government of the United States. All work done under the provisions of Title 23 or other acts of Congress relative to highways shall be performed as required under acts of Congress and the rules and regulations promulgated thereunder. Laws, or rules and regulations, of this state inconsistent with the laws, or rules and regulations, of the United States, shall not apply to such work, to the extent of the inconsistency.

Any major conflicts between the laws, or rules and regulations, of this state and the federal law, or rules and regulations, which have been resolved under this section during a calendar year shall be

described in a report which the department shall submit to the Legislature pursuant to section 14051 of the Government Code.

SEC. 67. Section 1712 of the Streets and Highways Code is amended to read:

1712. (a) A county and a city or cities may join in the acquisition of rights-of-way, construction, maintenance, improvement, or repair of bicycle routes or paths, or portions thereof, located within or without the city or cities.

(b) The cost or expense thereof shall be apportioned among the county and the city or cities as the legislative bodies thereof determine by agreement.

(c) The authority and responsibility for the acquisition and work shall vest in the county or in the city or cities, or in both, as provided in the agreement apportioning the cost or expense thereof.

SEC. 68. Section 1754.5 of the Streets and Highways Code is amended to read:

1754.5. When a navigable bay forms a boundary between two counties, the boards of supervisors of the counties may establish and operate any ferry across the bay, subject to any restrictions in Article 7 (commencing with Section 30350) of Chapter 1 of Division 17 or in any bond resolution of the commission which may be applicable.

SEC. 69. Section 2104.1 of the Streets and Highways Code is amended to read:

2104.1. The Controller shall deduct annually, from the amount apportioned pursuant to Section 2104, the amount identified as applicable to counties in the report submitted in the preceding fiscal year pursuant to Section 191, and shall transfer the amount to the State Highway Account.

SEC. 70. Section 2107.6 of the Streets and Highways Code is amended to read:

2107.6. The Controller shall deduct annually, from the amount apportioned pursuant to Section 2107, the amount identified as applicable to cities in the report submitted in the preceding fiscal year pursuant to Section 191, and shall transfer the amount to the State Highway Account.

SEC. 71. Section 2118.5 of the Streets and Highways Code is amended to read:

2118.5. All or a portion of the cost of furnishing warranted traffic control personnel whose function is to assist students in crossing streets and highways and avoiding traffic hazards may be charged against money apportioned to cities, cities and counties, or counties from the Highway Users Tax Account in the Transportation Tax Fund. The amount charged shall not exceed the portion of money derived from the tax under the Motor Vehicle Account in the State Transportation Fund. The department may assist local agencies in establishing warrants for crossing guard protection.

SEC. 71.5. Section 2179 of the Streets and Highways Code is repealed.

SEC. 71.6. Section 2544 of the Streets and Highways Code is

amended to read:

2544. The department shall prepare and submit to the Legislature not later than July 1, 1976, a priority list of abandoned railroad lines having rights-of-way that may be developed for public transportation uses. The department shall prepare and submit to the Legislature a revised priority list thereafter pursuant to Section 14051 of the Government Code.

In preparing the list, the department shall consider the State Rail Plan prepared pursuant to Section 7701 of the Public Utilities Code and shall also consult with any city, county, transit district, or regional transportation planning entity within whose boundaries such abandoned railroad lines are located.

The department may consider contributions by local agencies toward the purchase of such rights-of-way as a factor in ranking the rights-of-way on the priority list.

SEC. 72. Section 25034 of the Streets and Highways Code is amended to read:

25034. The Secretary of State shall furnish and transmit to the clerk of the board of supervisors of the county adopting the initial resolution for the organization of the district a certificate of organization of the district. Within 10 days after the receipt of the certificate, the clerk shall notify (a) the clerks of the several boards of supervisors of the counties constituting the district, (b) the state Director of Transportation, and (c) each supervisor appointed as a member of the board of directors of the district that the district has been organized.

SEC. 73. Section 30100.5 of the Streets and Highways Code is amended to read:

30100.5. Notwithstanding Section 30100 or any other provision of law, no bridge or other highway crossing shall be constructed across San Francisco Bay by the commission, the department, or the Golden Gate Bridge, Highway and Transportation District, except to replace bridges or highway crossings on a one-for-one basis.

SEC. 74. Section 30306 of the Streets and Highways Code is amended to read:

30306. The money remaining in each separate toll revenue fund, after providing the amount required for interest and redemption of bonds, shall be held and applied as provided in the proceedings authorizing the issuance of the bonds. If the proceedings authorizing the issuance of the bonds do not require surplus revenues to be held or applied in any particular manner, they shall be allocated and used for other purposes incidental to the acquisition, construction, operation, and maintenance of the particular toll bridge or other highway crossing, transportation facilities, or additional transportation facilities as the commission determines.

SEC. 75. Section 30352 of the Streets and Highways Code is amended to read:

30352. As long as any of the bonds issued pursuant to this chapter for the acquisition, construction, enlargement, extension, or change

in design or structure of any toll bridge or other highway crossing acquired or constructed pursuant to this chapter or the transportation facilities or additional transportation facilities thereon or thereto are outstanding and unpaid, any ferry or any similar means of crossing the waters within 10 miles from either side of the toll bridge shall not be operated, except as between the particular points of landing between which the ferry or other similar means of crossing was operated and only as to the particular classes of service in which the ferry or other similar means of crossing was actually engaged at the time the construction of the toll bridge or other highway crossing was authorized by the commission. Any ferry or other similar means of crossing shall not be restored to operation between any points of landing or as to any class of traffic operation discontinued subsequent to the authorization by the commission of any bridge or highway crossing.

"Ferry," as used in this article, includes vessels of any kind or character operating upon the inland waters of this state for the transportation of persons or vehicles other than railway freight cars, including vessels operated by, or in conjunction with, any railroad, interurban railroad, or other common carrier.

SEC. 76. Section 30353 of the Streets and Highways Code is amended to read:

30353. Sections 30350 and 30351 are binding upon the commission, the state, all of its departments, agencies, or instrumentalities, any and all private, political, municipal, and public corporations and subdivisions, including cities, counties, and districts of any nature whatever. The prohibitions of those sections restrict and limit the powers of the Legislature with respect to the matters mentioned in those sections as long as any bonds are outstanding and unpaid and constitute a contract to that effect for the benefit of the holders of all bonds.

SEC. 77. Section 30608 of the Streets and Highways Code is repealed.

SEC. 78. Section 30884 of the Streets and Highways Code is amended to read:

30884. "Net revenues" means those revenues of a toll bridge that are in excess of the amount required (a) to pay necessary costs of operation, rehabilitation, and necessary safety improvements, (b) to meet the obligations assumed by the California Transportation Commission under any bond resolution applicable to the toll bridge, and (c) to repay any advances made to the department from any other source for studies and work preliminary to the financing of any toll bridge project.

SEC. 79. Section 30885 of the Streets and Highways Code is amended to read:

30885. "Toll bridge" means any bridge under the jurisdiction of the California Transportation Commission, including the approaches to the toll bridge from the nearest highway that is not for the exclusive use of toll bridge traffic, and located within the region under the

jurisdiction of the commission.

SEC. 80. Section 30886 of the Streets and Highways Code is amended to read:

30886. Upon securing the required consent of the holders of outstanding bonds on the toll bridge, and of the federal government where necessary, the Metropolitan Transportation Commission may adopt a toll schedule in lieu of the one adopted by the California Transportation Commission for a toll bridge located within the region under its jurisdiction and allocate the net revenues therefrom pursuant to this article.

SEC. 81. Section 30887 of the Streets and Highways Code is amended to read:

30887. The Metropolitan Transportation Commission shall adopt a toll schedule only after (a) it has held public hearings within the region under its jurisdiction and (b) the California Transportation Commission has approved the proposed toll schedule.

However, the California Transportation Commission may increase the toll rates specified in the adopted toll schedule if this is necessary in order to enable the California Transportation Commission to meet its obligations under any bond resolution.

SEC. 82. Section 30888 of the Streets and Highways Code is amended to read:

30888. The California Transportation Commission shall expeditiously approve the toll schedule proposed by the Metropolitan Transportation Commission, unless the California Transportation Commission finds and determines that the proposed toll schedule will result in either of the following:

(a) Will not generate sufficient revenues (1) to pay required costs of operation, rehabilitation, and necessary safety improvements, (2) to meet the obligations assumed by the California Transportation Commission under any bond resolution applicable to the toll bridge, and (3) to repay any advances made to the department from any source for studies and work preliminary to the financing of any toll bridge project.

(b) Will adversely affect any state interest, including, but not limited to, the safe and efficient movement of traffic and the collection of tolls.

SEC. 83. Section 21101 of the Vehicle Code is amended to read:

21101. Local authorities may adopt rules and regulations by ordinance or resolution on any of the following matters:

(a) Closing any highway to vehicular traffic when, in the opinion of the legislative body having jurisdiction, the highway is no longer needed for vehicular traffic.

(b) Designating any highway as a through highway and requiring that all vehicles observe official traffic control devices before entering or crossing the highway or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances to the intersection.

(c) Prohibiting the use of particular highways by certain vehicles,

except as otherwise provided by the Public Utilities Commission pursuant to Article 2 (commencing with Section 1031) of Chapter 5 of Part 1 of Division 1 of the Public Utilities Code. No ordinance adopted pursuant to this subdivision after November 10, 1969, shall apply to any state highway included in the National System of Interstate and Defense Highways, except an ordinance approved by a two-thirds vote of the California Transportation Commission.

(d) Closing particular streets during regular school hours for the purpose of conducting automobile driver training programs in the secondary schools and colleges of this state.

(e) Temporarily closing a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities having jurisdiction, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

SEC. 84. Section 22364 of the Vehicle Code is amended to read:

22364. Whenever the Department of Transportation determines, upon the basis of an engineering and traffic survey, that the safe and orderly movement of traffic upon any state highway will be facilitated by the establishment of different speed limits for the various lanes of traffic, the department may place signs upon the state highway, or any portion thereof. The signs shall designate the speed limits for each of the lanes of traffic.

SEC. 85. Section 23272 of the Vehicle Code is amended to read:

23272. When any vehicle or object on any vehicular crossing, upon which towing service is maintained, is stopped for any reason and is obstructing or may obstruct traffic, the vehicle or object shall be towed by the towing service either to the nearest property of the Department of Transportation designated for the parking or storing of vehicles, or to a suitable parking location on a public street or highway and thereupon left in the custody of the owner or operator of the vehicle or object, or his agent, or, if no owner, operator, or agent is present, or if an owner, operator, or agent so requests, to a public garage or off-street parking facility. The department may prescribe the limits within which the towing service shall be operated.

Notwithstanding the foregoing provisions, the department may furnish and deliver fuel to vehicles, the supply of which is exhausted, or change tires, and may charge a reasonable sum for the services and materials furnished or, if the department deems it safe and advisable, and the owner or operator of the vehicle or object so requests, it may be towed from the vehicular crossing.

SEC. 86. Chapter 14 (commencing with Section 23340) of Division 11 of the Vehicle Code is repealed.

SEC. 87. Section 35701 of the Vehicle Code is amended to read:

35701. (a) Any city may, by ordinance, prohibit the use of a street by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit, except with respect to any vehicle which is subject to Sections 1031 to 1036, inclusive, of the Public

Utilities Code.

(b) The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(c) No ordinance adopted pursuant to this section after November 10, 1969, shall apply to any state highway which is included in the National System of Interstate and Defense Highways, except an ordinance which has been approved by a two-thirds vote of the California Transportation Commission.

SEC. 88. Section 35712 of the Vehicle Code is amended to read:

35712. (a) Any county may, by ordinance, prohibit the use of any highway located in an unincorporated residential or subdivision area by any commercial vehicle exceeding a gross weight of 14,000 pounds.

(b) Any county of the third class, as defined by Section 28024 of the Government Code, or of the ninth class, as defined by Section 28030 of the Government Code, may, by ordinance, prohibit the use of any highway located in an unincorporated residential or subdivision area by any commercial vehicle exceeding a gross weight of 5,000 pounds.

(c) This section does not apply to a vehicle operated by, or on behalf of, a public utility in connection with the installation, operation, maintenance, or repair of its facilities.

(d) No ordinance adopted pursuant to this section after November 10, 1969, shall apply to any state highway which is included in the National System of Interstate and Defense Highways, except an ordinance approved by a two-thirds vote of the California Transportation Commission.

SEC. 89. Section 39010 of the Vehicle Code is repealed.

SEC. 90. Section 1 of Chapter 1044 of the Statutes of 1970 is amended to read:

Section 1. Future widening of the existing roadway of Route 14 from a point near the proposed Palmdale Airport to Route 5 shall be designed by the Department of Transportation so as to reserve sufficient space for exclusive or preferential lane facilities for mass transit vehicles.

SEC. 91. Section 62 of Chapter 161 of the Statutes of 1979 is amended to read:

Sec. 62. From funds appropriated to it for such purposes from the Transportation Planning and Development Account in the State Transportation Fund, the California Transportation Commission shall, on the recommendation of the Department of Transportation, allocate funds to public transportation projects to improve the interface of various transportation modes for the purpose of matching available federal or local funds. Priority shall be given to projects for which local funds have been committed.

The commission may augment the original project allocation by not more than 10 percent for contingency and administrative

purposes.

SEC. 92. Section 64 of Chapter 161 of the Statutes of 1979 is amended to read:

Sec. 64. The allocation for each project funded pursuant to Section 61 or 62 of this act shall be subject to the terms and conditions set forth in an allocation agreement between the Department of Transportation and each responsible entity. All agreements shall be exempt from the review provisions of Section 14780 of the Government Code. The California Transportation Commission may reallocate funds designated for any applicant upon receipt of a written waiver of funds, to other projects eligible for funding pursuant to Section 62 of this act.

SEC. 93. Any section of any act enacted by the Legislature during the 1982 portion of the 1981–82 Regular Session which takes effect on or before January 1, 1983, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to this act.

CHAPTER 682

An act to amend, repeal, and add Sections 1700.4 and 1700.44 of, to repeal Section 1700.46 of, and to add and repeal Article 4 (commencing with Section 1701) to Chapter 4 of Part 6 of Division 2 of, the Labor Code, relating to talent agencies.

[Approved by Governor August 31, 1982. Filed with Secretary of State August 31, 1982.]

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

SECTION 1. Section 1700.4 of the Labor Code is amended to read:

1700.4. (a) A talent agency is hereby defined to be a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists, except that the activities of procuring, offering, or promising to procure recording contracts for an artist or artists shall not of itself subject a person or corporation to regulation and licensing under this chapter. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures; radio artists; musical artists; musical organizations; directors of legitimate stage, motion picture and radio productions; musical directors; writers; cinematographers; composers; lyricists;

arrangers; and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

(b) This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends that date.

SEC. 2. Section 1700.4 is added to the Labor Code, to read:

1700.4. (a) A talent agency is hereby defined to be a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate stage, motion picture and radio productions, musical directors, writers, cinematographers, composers, lyricists, arrangers, and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

(b) This section shall become operative on January 1, 1985.

SEC. 3. Section 1700.44 of the Labor Code is amended to read:

1700.44. In cases of controversy arising under this chapter the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo. To stay any award for money, the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than one thousand dollars ($1,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he has by investigation established that there is no dispute as to the amount of the fee due. Service of such certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and such certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

No action or proceeding may be prosecuted under this chapter with respect to any violation occurring or alleged to have occurred more than one year prior to commencement of the action or proceeding.

It shall not be unlawful for a person or corporation who is not licensed under this chapter to act in conjunction with, and at the request of, a duly licensed and franchised talent agency in the negotiations of an employment contract.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute, which is

chaptered before January 1, 1985, deletes or extends that date.

SEC. 4. Section 1700.44 is added to the Labor Code, to read:

1700.44. (a) In cases of controversy arising under this chapter the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo. To stay any award for money, the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than one thousand dollars ($1,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he has by investigation established that there is no dispute as to the amount of the fee due. Service of such certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and such certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

This section shall become operative on January 1, 1985.

SEC. 5. Section 1700.46 of the Labor Code is repealed.

SEC. 6. Article 4 (commencing with Section 1701) is added to Chapter 4 of Part 6 of Division 2 of the Labor Code, to read:

Article 4. California Entertainment Commission

1701. There is hereby created in state government the California Entertainment Commission consisting of 10 members. Three members of the commission shall be appointed by the Governor, three members by the Speaker of the Assembly, and three members by the Senate Rules Committee. Each appointing power shall appoint a licensed talent agent, a personal manager of at least three artists, and an artist. The Labor Commissioner shall also be a member of the commission.

1702. The commission shall study the laws and practices of this state, the State of New York, and other entertainment capitals of the United States relating to the licensing of agents and representatives of artists in the entertainment industry in general, and the recording industry in particular, so as to enable the commission to recommend to the Legislature a model bill regarding this licensing.

1703. The commission shall report to the Legislature and the Governor not later than October 1, 1984. All expenses of the commission shall be appropriated in the Budget Act.

1704. This article shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends that date.

CHAPTER 683

An act making an appropriation for fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1982. Filed with Secretary of State September 1, 1982.]

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

SECTION 1. The sum of three hundred fifty thousand dollars ($350,000) is hereby transferred from the Special Account for Capital Outlay in the General Fund to the Controller for allocation to the Department of General Services for expenditure during the 1982–83, 1983–84, and 1984–85 fiscal years, except that appropriations for studies, planning, and working drawings, and minor capital outlay shall be available for expenditure only during the 1982–83 fiscal year. In addition, every appropriation made in this section for construction, or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1983, shall revert as of that date to the fund from which the appropriation was made.

For capital outlay, Department of General Services....	$350,000
Schedule:	
(a) Land Acquisition—New State Office Building, Van Nuys.....	$350,000

The appropriation contained in this section is in addition to any other amounts heretofore appropriated for this project and subject to all of the limitations applicable thereto.

SEC. 2. There is hereby appropriated from the Environmental License Plate Fund to the State Department of Forestry three hundred forty-five thousand dollars ($345,000) for the purpose of testing fire suppression equipment.

This section shall become operative only if Senate Bill 1408 of the 1981–82 Regular Session is chaptered.

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

In order for the benefits and savings which will result from this act to be maximized, it is necessary that this act go into effect immediately.

CHAPTER 684

An act to add Chapter 10 (commencing with Section 13170) to Part 7 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Chapter 10 (commencing with Section 13170) is added to Part 7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 10. ADMINISTRATION

13170. The board, the Insurance Commissioner, and the Controller may each prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part for which the agency has a constitutional or statutory responsibility. Each agency may prescribe the extent to which any rule and regulation it has adopted shall be applied without retroactive effect.

CHAPTER 685

An act to amend Section 2435 of the Business and Professions Code, relating to the Board of Medical Quality Assurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 2435 of the Business and Professions Code is amended to read:

2435. The following fees apply to physician's and surgeon's certificates, certificates to practice podiatric medicine, certificates of drugless practitioners and certificates to practice midwifery:

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the board at an amount not to exceed one hundred dollars ($100) or less than twenty-five dollars ($25) and an examination fee fixed by the board at an amount not to exceed the cost of purchase and administration of any licensure examination, but in no event shall the

fee exceed two hundred dollars ($200). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

The board may require applicants to remit all or part of the examination fee directly to the organization furnishing examination materials pursuant to Section 2176. The organization furnishing those materials shall refund any fee to the applicant if the applicant does not desire to take the examination.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based upon reciprocity, shall pay an application fee of ten dollars ($10) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any. The initial license fee shall be fixed by the board at a sum not in excess of two hundred dollars ($200), except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the board. Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the initial license fee in effect. The board may waive or refund the initial license fee where the license will expire within 45 days after it is issued.

(d) The biennial renewal fee shall be fixed by the board at an amount not to exceed two hundred dollars ($200). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is twenty-five dollars ($25).

(f) The duplicate certificate fee is two dollars ($2).

(g) The endorsement fee is five dollars ($5).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that appropriate fees may be collected prior to December examinations which will cover costs incurred as a result of those examinations, it is necessary that this act go into immediate effect.

CHAPTER 686

An act to amend Sections 36600 and 36610 of the Vehicle Code, relating to implements of husbandry.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 36600 of the Vehicle Code is amended to read:

36600. (a) The limitations as to width as set forth in Chapter 2 (commencing with Section 35100) of Division 15 do not apply to implements of husbandry incidentally operated, transported, towed, or otherwise moved over a highway.

(b) Notwithstanding subdivision (a), when an implement of husbandry is transported or moved over a highway which is a part of the National System of Interstate and Defense Highways (as referred to in Section 108 of the Federal-aid Highway Act of 1956) as a load on another vehicle, if the load exceeds 96 inches in width, the vehicle and load shall not be operated for a distance in excess of 25 miles from the point of origin of the trip. The operator of the transporting vehicle shall be a farmer or a person regularly employed by a farmer or farm corporation, and the operator transporting the load shall have in his or her immediate possession a writing signed by the farmer or farm corporation agent which states the origin and destination of the trip.

(c) Notwithstanding subdivision (a), when an implement of husbandry is transported or moved over any other highway as a load on another vehicle, if the load exceeds 120 inches in width, the vehicle and load shall not be operated for a distance in excess of 25 miles from the point of origin of the trip. The operator of the transporting vehicle shall be a farmer or a person regularly employed by a farmer or farm corporation, and the operator transporting the load shall have in his or her immediate possession a writing signed by the farmer or farm corporation agent which states the origin and destination of the trip.

SEC. 2. Section 36610 of the Vehicle Code is amended to read:

36610. (a) The limitations as to height of vehicles contained in Chapter 3 (commencing with Section 35250) of Division 15 do not apply to implements of husbandry incidentally operated, transported, towed, or otherwise moved over a highway.

(b) Notwithstanding subdivision (a), when an implement of husbandry is transported or moved over a highway as a load on another vehicle and the load exceeds 14 feet in height, the vehicle and load shall not be operated for a distance in excess of 25 miles from the point of origin of the trip. The operator of the transporting vehicle shall be a farmer or a person regularly employed by a farmer

or farm corporation, and the operator transporting the vehicle shall have in his or her immediate possession a writing signed by the farmer or farm corporation agent which states the origin and destination of the trip.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 687

An act to amend Section 215.5 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 215.5 of the Streets and Highways Code is amended to read:

215.5. (a) The department shall develop and implement a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the California freeway and expressway system. In establishing a priority system, the department shall give the highest consideration to residential areas which were developed prior to the opening of the freeway. If alterations have been made to the freeway since its original opening which result in a significant and measurable increase in ambient noise levels, the opening date for that segment of the freeway, for the purposes of determining priorities under this section, is the completion date of that alteration project. Other criteria for determining priorities shall include the existing and future intensity of sound generated by the freeway, the increase in traffic flow since the original construction of the freeway, the cost of building the sound wall in relation to the expected noise reduction, and the number of persons living in close proximity to the freeway.

(b) When all freeways have been ranked in priority order, the department shall, consistent with available funding, recommend in the six-year plan, and in succeeding six-year plans, a program of construction of noise attentuation barriers beginning with the highest priority.

(c) If any city or county construct a noise attenuation barrier along a freeway using public funds prior to the time that the barrier

reaches a high enough priority for state funding, then, when the funding priority is reached, the department shall reimburse the city or county without interest for the cost of construction, but the reimbursement may not exceed the cost of the department to construct the barriers. Reimbursement shall be made only if the city or county constructs the noise attenuation barrier to the standards approved by department, follows bidding and contracting procedures approved by the department, and the project is approved by the commission.

CHAPTER 688

An act to amend Section 14785.1 of the Government Code, relating to recycling.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 14785.1 of the Government Code is amended to read:

14785.1. Fitness and quality being equal, all local public agencies shall purchase recycled paper and paper products instead of unrecycled paper or paper products whenever available at no more than the total cost of unrecycled paper and paper products. All local public agencies may and state agencies shall give preference to the suppliers of recycled paper or paper products if the bids of such suppliers do not exceed by more than 5 percent the lowest bid or price quoted by suppliers offering unrecycled paper or paper products.

CHAPTER 689

An act to repeal Section 39384 of, to add and repeal Article 1.5 (commencing with Section 39295) of Chapter 3 of Part 23 of, and to repeal, add, and repeal Article 9 (commencing with Section 39470) of Chapter 3 of Part 23 of, the Education Code, relating to education.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Article 1.5 (commencing with Section 39295) is added to Chapter 3 of Part 23 of the Education Code, to read:

Article 1.5. Advisory Committees

39295. It is the intent of the Legislature that leases entered into pursuant to this chapter provide for community involvement by attendance area at the district level. This community involvement should facilitate making the best possible judgments about the use of excess school facilities in each individual situation.

It is the intent of the Legislature to have the community involved before decisions are made about school closure or the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community's needs and desires.

39296. The governing board of any school district may, and the governing board of each school district, prior to the sale, lease, or rental of any excess real property, except rentals not exceeding 30 days, shall, appoint a district advisory committee to advise the governing board in the development of districtwide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes.

39297. A school district advisory committee appointed pursuant to Section 39296 shall consist of not less than seven nor more than 11 members, and shall be representative of each of the following:

(a) The ethnic, age group, and socioeconomic composition of the district.

(b) The business community, such as store owners, managers, or supervisors.

(c) Landowners or renters, with preference to be given to representatives of neighborhood associations.

(d) Teachers.

(e) Administrators.

(f) Parents of students.

(g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning.

39298. The school district advisory committee shall:

(a) Review the projected school enrollment and other data as provided by the district to determine the amount of surplus space.

(b) Establish a priority list of use of surplus space that will be acceptable to the community.

(c) Cause to have circulated throughout the attendance area a priority list of surplus space and provide for hearings of community input to the committee on acceptable uses of space.

(d) Make a final determination of limits of tolerance of use of space.

(e) Forward to the district governing board a report recommending uses of surplus space.

39299. The governing board may elect not to appoint an advisory committee pursuant to Section 39295 in the case of a lease or rental to a private educational institution for the purpose of offering summer school in a facility of the district.

39299.5. This article shall remain in effect only until December

31, 1986, and as of that date is repealed unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends that date.

SEC. 2. Section 39384 of the Education Code is repealed.

SEC. 3. Article 9 (commencing with Section 39470) of Chapter 3 of Part 23 of the Education Code is repealed.

SEC. 4. Article 9 (commencing with Section 39470) is added to Chapter 3 of Part 23 of the Education Code, to read:

Article 9. Joint Use

39470. (a) The governing board of any school district may enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to other school districts, educational agencies, except private educational institutions which maintain kindergarten or grades 1 to 12, inclusive, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals, including during normal school hours if the school is in session.

(b) The governing board shall give first priority in leasing or renting vacant classroom space or other space to educational agencies for conducting special education programs and second priority to other educational agencies.

39471. As used in this article, "building" includes onsite and offsite facilities, utilities, and improvements which, as agreed upon by the parties, are appropriate for the proper operation or function of the building to be jointly occupied and used. It also includes the permanent improvement of school grounds.

39472. Prior to entering into a lease or agreement pursuant to this article, the school district governing board shall determine that the proposed joint occupancy and use of school district property or buildings will not do any of the following:

(a) Interfere with the educational program or activities of any school or class conducted upon the real property or in any building.

(b) Unduly disrupt the residents in the surrounding neighborhood.

(c) Jeopardize the safety of the children of the school.

39473. The governing board of a school district entering into a lease pursuant to this article shall comply with the applicable provisions of Article 4 (commencing with Section 39360).

39474. (a) Except as provided in subdivision (b) of this section and Section 39475, the amount of classroom space leased pursuant to this article in any school site during normal school hours shall not exceed 45 percent of the total classroom space of that school, and in no event shall the leased classroom space in the school district during normal school hours exceed 30 percent of the district's total classroom space in operating schools.

(b) The governing board of a school district may, upon a

two-thirds vote, enter into lease agreements which exceed the 45-percent limit per school upon making a finding that the leases are compatible with the educational purpose of the school. The board, however, shall not exceed, pursuant to this subdivision, the 30-percent limit of classroom space for the entire school district.

(c) The provisions of this section shall not apply to agreements for the lease of classroom space entered into by districts on or before March 4, 1981

39475. The governing board of a school district may lease vacant classroom space the total area of which exceeds the 30-percent districtwide limit of classroom space available pursuant to this article, if a lease is for any day care center, nursery school, or special education class.

39476. A local agency having general planning jurisdiction may require adherence to appropriate zoning ordinances, use permits, construction or safety codes, by a school district seeking to lease a portion of a school building for uses other than public or education-related uses.

39477. (a) Except as provided in subdivision (b), the term of any agreement entered into by a school district pursuant to this article shall not exceed five years.

(b) The provisions of subdivision (a) shall not apply to agreements under or pursuant to which capital outlay improvements are made on school property for park and recreation purposes by public entities and nonprofit corporations.

39478. (a) Except as provided in subdivision (b), no agreement entered into by a school district pursuant to this article shall rent or lease vacant classrooms or other space in operating schools for less than fair market rental for comparable facilities.

(b) A district may enter into an agreement to rent or lease vacant classrooms or other space in operating schools to public entities for less than fair market rental for comparable facilities.

39479. This article shall remain in effect only until December 31, 1986, and as of that date is repealed unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends that date.

SEC. 5. The provisions of this act shall apply only to leases entered into after January 1, 1983.

CHAPTER 690

An act to amend Section 5151 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. Interest at the rate of 9 percent per annum shall be paid, when such interest is ten dollars ($10) or more, on amounts refunded under Section 5096.7, or refunded as a result of the reduction of assessed value following an application for equalization by a board of equalization or by a court action to recover taxes, or as a consequence of an assessor's clerical error. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of such notice.

Interest allowed under this section shall be computed using whichever of the three following periods provides the longest period:

(a) The date of the recording of the deed to the public agency acquiring the property in eminent domain to the date of the filing of the claim for refund.

(b) The date of the payment of the tax on property subject to an application for equalization of the assessed value thereof to the date of the determination of the equalized value of the property.

(c) The date of the payment of the tax on property subject to a refund as a result of an assessor error in assessing the property to a date 15 days after the date of approval of the correction to the tax roll.

The interest charged shall be apportioned to the appropriate funds, as determined by the county auditor.

CHAPTER 691

An act to amend Sections 14409, 14410, 14551, 14552, 14554, 14600, 14601, 14602, 14603, 14604, 14750, 14751, 15050, 15051, and 15451 of, and to add Sections 14006 and 14605 to, the Financial Code, relating to credit unions.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 14006 is added to the Financial Code, to read:

14006. "Credit manager" means a natural person approved by the board of directors and employed by a credit union to supervise the lending activities of the credit union in accordance with the loan policies established by the board of directors and consistent with the applicable state and federal law and regulations. A credit manager

may be but is not required to be a member of the credit union.

SEC. 2. Section 14409 of the Financial Code is amended to read:

14409. Every credit union shall:

(a) Obtain adequate surety bond coverage for the treasurer and any assistant treasurer conditioned upon the honest performance of his or her trust. The minimum principal amount of such bond shall be based on the gross assets of the credit union, according to the following schedule:

Gross assets	Amount of bond
0 to $5,000	$1,000
5,001 to 10,000	2,000
10,001 to 20,000	4,000
20,001 to 30,000	5,000
30,001 to 40,000	8,000
40,001 to 50,000	10,000
50,001 to 75,000	15,000
75,001 to 100,000	20,000
100,001 to 150,000	30,000
150,001 to 200,000	40,000
200,001 to 300,000	50,000
300,001 to 400,000	60,000
400,001 to 500,000	70,000
500,001 to 750,000	85,000
750,001 to 1,000,000	100,000
1,000,001 to 50,000,000	100,000 plus 50,000 for each additional million or fraction thereof of assets over 1,000,000
50,000,001 to 150,000,000	$2,500,000 plus 25,000 for each additional million or fraction thereof of assets over 50,000,000
Over 150,000,000	5,000,000

(b) Obtain adequate fidelity bond coverage for each officer and employee having control of or access to funds or securities owned by or pledged with a credit union commensurate with risks involved.

(c) Obtain fidelity bond coverage for its credit manager.

SEC. 3. Section 14410 of the Financial Code is amended to read:

14410. No member of the board of directors, supervisory committee, or credit committee shall receive any compensation for his or her services as such, but he or she may be provided with reasonable health, accident and similar insurance under such terms and conditions as specified by the commissioner in the credit union regulations, provided that insurance protection shall exclude life insurance, shall be limited to areas of risk, including accidental death

and dismemberment, to which the official is exposed by virtue of carrying out the duties or responsibilities of his or her credit union position and shall cease immediately when the insured person leaves office without providing residual benefits other than from pending claims, if any. A director or committee member may be reimbursed for actual expenses incurred in the performance of his or her duties. Nothing in this section shall prevent any person from receiving compensation for actual services as a general manager, credit manager, loan officer, or other position as an employee of the credit union.

SEC. 4. Section 14551 of the Financial Code is amended to read:

14551. The supervisory committee may:

(a) Suspend at any time by unanimous vote, at a meeting called for that purpose, the credit committee, or any member thereof, or the credit manager, or any member of the board of directors, or any officer.

(b) By a majority vote call a meeting of the members to consider any violation of this division or the bylaws, or any practices of the credit union which, in the opinion of the committee, are unsafe or unauthorized.

(c) Inspect the securities, cash, and accounts of the credit union and supervise the acts of its board of directors, officers, and credit committee or credit manager.

(d) Fill vacancies in the supervisory committee until the next annual meeting of the members.

(e) Declare vacant any office of a member of the supervisory committee if such member is absent from three consecutive regular meetings of the supervisory committee unless excused therefrom or is completely inactive as a member of the supervisory committee for a consecutive 12 months' period.

SEC. 5. Section 14552 of the Financial Code is amended to read:

14552. The supervisory committee shall, within seven days after suspension of any or all members of the credit committee, or the credit manager, or any member of the board of directors, or any other officer, cause notice of a special meeting to be given to the members to take such action regarding the suspension as the members deem necessary.

SEC. 6. Section 14554 of the Financial Code is amended to read:

14554. No member of the supervisory committee shall serve as a member of the credit committee, as the credit manager, as a member of the board of directors, or as an employee of the credit union.

SEC. 7. Section 14600 of the Financial Code is amended to read:

14600. Every credit union shall have a credit committee of at least three persons, each of whom shall be a member of the credit union, or in the alternative, a credit manager, to have general supervision of all loans to members. The bylaws of the credit union shall provide that either: (1) the members of the credit committee shall be elected by the members of the credit union at their annual

meeting, or (2) they shall be appointed by the board of directors, or (3) that the board of directors may establish the position of credit manager in lieu of a credit committee. The bylaws of the credit union shall provide for the terms of office of the credit committee, where the credit committee has been provided for in the bylaws, which shall not exceed three years, and which may be staggered.

SEC. 8. Section 14601 of the Financial Code is amended to read:

14601. No member of the credit committee or the credit manager or any loan officer shall serve as a member of the supervisory committee. A credit manager shall not be a member of the board of directors.

SEC. 9. Section 14602 of the Financial Code is amended to read:

14602. (a) No credit union shall make any loan or extension of credit without the written approval of a majority of the members of the credit committee or the credit manager or of a loan officer appointed as provided in this section.

(b) The credit committee or the credit manager may, with the approval of the board of directors, appoint one or more loan officers who shall be authorized to approve loan applications within the limits set by the credit committee or the credit manager, but in no event to exceed the sum of one thousand dollars ($1,000) plus the unpledged shares of the borrower for any one loan if the paid-in and unimpaired capital and surplus of the credit union are less than five hundred thousand dollars ($500,000). Loan officers of credit unions with paid-in and unimpaired capital and surplus of five hundred thousand dollars ($500,000) or more may approve loan applications within the limits set by the credit committee or the credit manager, but in no event to exceed the sum of five thousand dollars ($5,000) plus the unpledged shares of the borrower for any one loan. Loan officers of credit unions with paid-in and unimpaired capital and surplus of one million dollars ($1,000,000) but less than five million dollars ($5,000,000) may approve loan applications within the limits set by the credit committee or the credit manager, but in no event in excess of the sum of fifteen thousand dollars ($15,000) plus the unpledged shares of the borrower for any one loan. Loan officers of credit unions with paid-in and unimpaired capital and surplus of five million dollars ($5,000,000) or more may approve loan applications within the limits set by the credit committee or the credit manager, but in no event in excess of the sum of twenty-five thousand dollars ($25,000) plus the unpledged shares of the borrower for any one loan. Such loan officer must be a member of the credit union and may, but need not be, a member of the credit committee or an officer or director of the credit union.

(c) A credit committee, a credit manager, and any loan officer shall not have the power to approve membership applications.

(d) No loan officers shall be permitted to approve any extension agreement of any delinquent loan or the refinancing of any delinquent loan except as prescribed in regulations promulgated by the commissioner.

(e) The credit committee, or in the alternative, the credit manager shall be provided with a record of each loan approved or not approved by any loan officer within seven days of such approval or disapproval.

(f) The credit manager shall prepare a weekly report to the chief executive officer or the general manager of the credit union containing the following:

(1) The number, amount, and, if applicable, the terms of any loan, any extension of credit, or any agreement to extend credit to a credit union member that was approved.

(2) The number, amount, and, if applicable, the terms of any loan, any extension of credit, or any agreement to extend credit to a credit union member that was denied.

(3) The dollar amount and number of months delinquent for each loan that is more than 45 days delinquent in order to permit the credit union to establish delinquency reserves as is required pursuant to regulations that may be issued by the commissioner from time to time. The board of directors shall review the credit manager's weekly reports no less frequently than on a monthly basis.

SEC. 10. Section 14603 of the Financial Code is amended to read:

14603. The credit committee, the credit manager, or a loan officer may approve in advance, upon their own motion or upon the application of any member, the extension of credit to any member and loans may be granted to such member within the limit of such extension of credit; however, a loan officer may not approve the extension of credit to any member in an amount greater than the unsecured loan limit of each borrower allowed by Section 15100. Where an extension of credit has been approved, applications for loans need not be approved by the credit committee, the credit manager, or loan officer as long as the aggregate amount of such loan or loans does not exceed the limit of such extension of credit. The credit committee, the credit manager, or loan officer shall review, from time to time, all extensions of credit approved by them and any extension of credit approved for any member shall expire if such member becomes ineligible for a loan or becomes more than 90 days delinquent in his obligations to the credit union.

SEC. 11. Section 14604 of the Financial Code is amended to read:

14604. Any applicant for a loan, loans, or an extension of credit may appeal from the decision of the credit committee, the credit manager, or loan officer to the board of directors.

SEC. 12. Section 14605 is added to the Financial Code, to read:

14605. A credit manager shall not disburse or have the authority to authorize any person to disburse the proceeds of any loan. A credit manager shall not authorize or make loans to other credit unions.

SEC. 13. Section 14750 of the Financial Code is amended to read:

14750. Any officer, director, member of a committee of a credit union, credit manager, or loan officer appointed pursuant to Section 14602 who knowingly permits a loan to be made or participates in a loan to a nonmember of the credit union, is guilty of a misdemeanor.

SEC. 14. Section 14751 of the Financial Code is amended to read:

14751. Any officer, director, member of a committee, credit manager, or loan officer appointed pursuant to Section 14602 who violates Section 14750 is primarily liable to the credit union for the amount of the loan. The illegality of the loan is no defense in an action by the credit union to recover the amount of the loan.

SEC. 15. Section 15050 of the Financial Code is amended to read:

15050. No credit union shall:

(a) Make loans to any director, officer, member of the credit committee or in the alternative, the credit manager, or member of the supervisory committee directly or indirectly unless the loan complies with all lawful requirements of this division with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers.

(b) Make loans to any director, officer, member of the credit committee or in the alternative, the credit manager, or member of the supervisory committee, directly or indirectly, not fully secured by shares or certificates for funds unless all of the following requirements are satisfied:

(1) Upon the making of the loan, the aggregate amount of loans outstanding, except loans fully secured by shares, to directors, officers, members of the credit committee and their alternates, or in the alternative, the credit manager, or members of the supervisory committee will not exceed 10 percent of the unimpaired capital and surplus of the credit union.

(2) The loan, except any portion fully secured by shares, does not exceed 1 percent of the unimpaired capital and surplus of the credit union, or the maximum obligation to the credit union prescribed by Section 15101, whichever is less.

(3) The loan is approved by the credit committee, or in the alternative, the credit manager and by the board of directors except that the credit manager shall not take part in any credit decision directly or indirectly for his or her benefit. The board of directors may select a loan officer to prepare a report and recommendation as to any extension of credit requested by the credit manager.

(4) The borrower takes no part in the consideration of his application and does not attend any committee or board meeting while his application is under consideration.

(5) The names of members of the credit committee, or in the alternative, the credit manager, and board of directors who voted to authorize or ratify the loan shall be entered in their respective minutes.

(c) Permit any director, officer, member of the credit committee, or in the alternative, the credit manager, or member of the supervisory committee to become surety for any loan or advance made by the credit union.

SEC. 16. Section 15051 of the Financial Code is amended to read:

15051. The board of directors shall declare the office of any director, officer, committee member, or the credit manager vacant

if such person fails to reduce any indebtedness to the credit union for which he is liable in a timely manner according to the terms of the obligation.

SEC. 17. Section 15451 of the Financial Code is amended to read:

15451. (a) A central credit union may, with the approval of the commissioner and under such regulations as he shall prescribe, admit to membership groups of employees of a common employer, including the employer, whose place of employment is located within 25 miles of the principal office of the central credit union, or is located within the boundaries of a greater or lesser geographic area prescribed by the commissioner, upon application made by the employer and approval of the board of directors of the central credit union.

(b) In the event the employee group qualifies under the provisions of Section 14154, these employees may organize a separate credit union. The central credit union may, upon a plan approved by the commissioner, transfer the member accounts of these employees to any credit union formed by them.

SEC. 18. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 692

An act to add Section 4541 to the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 4541 is added to the Welfare and Institutions Code, to read:

4541. (a) The Legislature finds and declares that assurance of high quality services to persons with developmental disabilities is adversely affected by the lack of clear standards, the lack of a method for setting rates of reimbursement based upon these standards, and the lack of effective enforcement of these standards.

(b) The State Council on Developmental Disabilities, in consultation with the Health and Welfare Agency, shall conduct a study to determine the most feasible method of establishing and enforcing quality assurance standards and the most feasible method

of setting rates based upon these standards.

Participants in this study shall include, but not be limited to, the State Department of Developmental Services, the California Association of Rehabilitation Facilities, the Association for Retarded Citizens—California, The Association of Regional Center Agencies, and other interested community and provider groups.

The study shall include, but not be limited to, the following:

(1) The feasibility of creating a standards and rates commission.

(2) The feasibility of providing an existing state agency with the authority to set standards and rates as an alternative to paragraph (1).

(3) The results of the state council's study of alternative reimbursement mechanisms for day programs as required by Chapter 168 of the Statutes of 1982.

(c) On or before September 1, 1983, the State Council on Developmental Disabilities shall submit the results of the study pursuant to subdivision (b) to the Legislature together with a detailed plan, based upon the results of the study, to implement standards for quality assurance, rates based upon the standards, a method to enforce the standards, and processes for the vendorization or accreditation of service providers. The report shall include recommendations for specific legislation necessary to implement the proposed plan.

(d) For the purpose of the study required by this section, the Health and Welfare Agency and all departments under its jurisdiction shall make available personnel, equipment, and information required for completion of the study.

CHAPTER 693

An act to add Section 31393 to the Water Code, relating to county water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 31393 is added to the Water Code, to read:

31393. (a) Any time following the establishment of an improvement district pursuant to this article, the board, by a four-fifths majority vote, may exempt part or all of the territory within the improvement district from liability for payment of principal, interest, and any other amounts which become due on account of any outstanding or then authorized but thereafter issued bonds of the county water district other than bonds issued for the improvement district. The board may adopt a resolution pursuant to

this section only if it first makes all of the following findings:

(1) Bonds for the improvement district have received the voter approval required by this chapter and part or all of the improvement district bonds have been issued to provide benefit to the improvement district.

(2) The territory for which exemption is proposed was annexed to the district after the bonds of the county water district were authorized and prior to formation of the improvement district.

(3) The territory proposed for exemption from the county water district bonds receives or will receive greater benefit from the improvement district bonds than it receives or will receive from county water district bonds from which the territory is proposed for exemption.

(b) When the county water district adopts a resolution pursuant to this section, it shall file it, together with a sufficient description of the territory to be exempted from the bonded indebtedness, in accordance with Section 54902 of the Government Code. The county assessor and the State Board of Equalization shall give the resolution the same effect as a term and condition adopted pursuant to subdivision (c) of Section 56470 of the Government Code; provided, however, the effective date of the resolution for tax purposes shall be determined by the filing date in accordance with Sections 54902 and 54902.1 of the Government Code.

(c) The provisions of this section apply only to the Yorba Linda County Water District.

SEC. 2. The Legislature hereby finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique and special water management problems within Improvement District No. 1 of the Yorba Linda County Water District which are not common to other districts organized pursuant to the County Water District Law. This act is necessary to permit elimination of certain overlapping bonded indebtedness within the improvement district and to provide for fair allocation of taxes among landowners according to the benefit derived from tax-supported general obligation bonds.

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

In order to eliminate inequitable double taxation for water facilities and to permit the equitable financing of vital water development facilities within county water districts at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 694

An act to amend Sections 2621, 2706, 2764, 3362, and 3372 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 2621 of the Revenue and Taxation Code is amended to read:

2621. After the second installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of ten dollars ($10) for preparing the delinquent tax records and giving notice of delinquency on each separate valuation on the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property cross-secured to real property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 2. Section 2706 of the Revenue and Taxation Code is amended to read:

2706. After the second installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of ten dollars ($10) for preparing the delinquent tax records and giving notice of delinquency on each separate valuation on the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property cross-secured to real property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 3. Section 2764 of the Revenue and Taxation Code is amended to read:

2764. After the fourth installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of ten dollars ($10) for preparing the delinquent tax records and giving notice of delinquency on each separate valuation of the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property cross-secured to real property.

The costs shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 4. Section 3362 of the Revenue and Taxation Code is amended to read:

3362. The published notice of intent to deed to the state shall

show:

(a) The date of the notice.

(b) That the number of years prescribed by law will have elapsed on the date set for deeding to the state since the property was sold to the state.

(c) That the property will be deeded to the state, unless sooner redeemed or an installment plan of redemption is initiated.

(d) The date and time at which the property will be deeded to the state, which date and time shall not be less than 21 days after the first publication.

(e) That the amount for which the deed will be issued will be the total amount due for which the property was sold to the state.

(f) That if the property is deeded to the state, the right of redemption will terminate upon any subsequent sale, or other conveyance, by the state.

(g) The official who will furnish all information concerning redemption.

(h) The fact that if the property is deeded to the state, the state shall have exclusive power to rent tax-deeded property, and to receive certain proceeds arising in any manner from the property.

(i) The year of the sale to the state and the fiscal year for which the taxes were levied.

(j) A description of the property. The assessments contained in this notice of deeding shall be numbered in ascending numerical order.

(k) The amount for which the property is to be deeded, opposite the description of the property.

(*l*) The name of the assessee on the current roll.

(m) The street address of the property, if any, shown on the county assessment records.

SEC. 5. Section 3372 of the Revenue and Taxation Code is amended to read:

3372. The notice shall show:

(a) The affidavit of sale to the state.

(b) The fact that the real property may be redeemed by the payment of the amount of sold taxes together with such additional penalties and fees as prescribed by law, or that the real property may be redeemed under an installment plan of redemption.

(c) The official who will furnish all information concerning redemption.

(d) The following information relating to each assessment of tax-sold property:

(1) The name of the assessee, and where there is more than one valuation the name of the assessee need be listed only once. For the purposes of this section, the name of the assessee may be the name of the assessee as shown on the current roll.

(2) The description of the property.

(3) The total amount for which the property was sold.

(4) The street address of the property, if any, shown on the county

assessment records.

This information required to be published is the "published delinquent list." If any property on the published delinquent list is redeemed, the information relating to the property may be omitted from any subsequent publications.

SEC. 6. The amendments to Sections 2621, 2706, 2764, 3362, and 3372 of the Revenue and Taxation Code made by this act shall become operative on July 1, 1983.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 695

An act to repeal Article 9.5 (commencing with Section 5300) of, and to add Article 9.5 (commencing with Section 5301) to, Chapter 1 of Division 3 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Article 9.5 (commencing with Section 5300) of Chapter 1 of Division 3 of the Vehicle Code is repealed.

SEC. 2. Article 9.5 (commencing with Section 5301) is added to Chapter 1 of Division 3 of the Vehicle Code, to read:

Article 9.5. Registration of Fleet Vehicles

5301. Notwithstanding any other provision of this code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, the registered owner or lessee of a fleet of vehicles consisting of commercial motor vehicles or commercial trailers or passenger automobiles may, upon payment of appropriate fees, apply to the department for permanent license plates or decals and registration cards.

Fleets shall consist of at least 500 vehicles to qualify for this program.

5302. (a) Vehicles registered in any state other than California shall not be permitted to participate in this program.

(b) Section 4604 does not apply to vehicles registered under this article.

(c) The department may conduct an audit of the records of each fleet owner or lessee of the vehicle fleets electing to participate in

the program. The department shall be fully reimbursed by the fleet owner or lessee for the costs of conducting the audits.

(d) Vehicles registered under this article shall display in a conspicuous place on both the right and the left side of each vehicle, the name, trademark, or logo of the company. The display of the name, trademark, or logo shall be in letters in sharp contrast to the background and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

5303. (a) The applicant for initial issuance of permanent registration or renewal of registration shall file an application in such form as the department shall require.

(b) Upon initial application, the department shall issue a distinguishing license plate or decal which indicates that the vehicle has been registered under this article.

(c) Display of the distinguishing license plate or decal and registration card shall constitute prima facie evidence that the vehicle is currently registered.

5304. Renewal fees shall be paid pursuant to a schedule established by the department.

5305. In addition to any other fees due for vehicles registered pursuant to this article, the department may charge and collect a service fee of one dollar ($1) per fleet vehicle at the time the initial application is submitted to the department and a service fee of one dollar ($1) at the time of registration renewal of each fleet vehicle.

5306. Upon payment of appropriate fees, the license plate or decal and registration card issued pursuant to this article for the vehicle shall remain valid until the provisions of Section 5307 have been met.

5307. (a) A fleet vehicle registered under this article may be deleted from the identified fleet when the fleet operator notifies the department of the proposed deletion on a form approved by the department and the distinguishing license plate or decal and registration card issued for the vehicle are surrendered to the department.

(b) Failure to comply with subdivision (a) will require that the payment of fees due for the registration of the vehicle shall be the responsibility of the fleet owner as though the vehicle remained part of the fleet.

(c) The fees determined to be due and owing under this article shall be a lien upon all vehicles of the applicant of a type subject to registration under this code, and the provisions of Article 6 (commencing with Section 9800) of Chapter 6 shall apply.

5308. The director shall adopt procedures for initial application, payment of fees, fleet additions or deletions, and for the cancellation of the distinguishing plates or decals and registration card issued to a vehicle of a fleet owner or lessee who does not comply with this article.

5309. The registration of any identified fleet vehicle is required annually.

CHAPTER 696

An act to amend Sections 19173 and 19574 of the Government Code, relating to state civil service.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 19173 of the Government Code is amended to read:

19173. Any probationer may be rejected by the appointing power during the probationary period for reasons relating to the probationer's qualifications, the good of the service, or failure to demonstrate merit, efficiency, fitness, and moral responsibility, but he or she shall not be rejected for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

A rejection during probationary period is effected by the service upon the probationer of a written notice of rejection which shall include: (a) an effective date for the rejection which shall not be later than the last day of the probationary period; and (b) a statement of the reasons for the rejection. Service of the notice shall be made prior to the effective date of the rejection, as defined by board rule for service of notices of adverse actions. Notice of rejection shall be served prior to the conclusion of the prescribed probationary period. The probationary period may be extended when necessary to provide the full notice period required by board rule. Within 15 days after the effective date of the rejection, a copy thereof shall be filed with the board.

SEC. 2. Section 19574 of the Government Code is amended to read:

19574. The appointing power, or its authorized representative, may take adverse action against an employee for one or more of the causes for discipline specified in this article. Adverse action is valid only if a written notice is served on the employee prior to the effective date of the action, as defined by board rule. The notice shall be served upon the employee either personally or by mail and shall include: (a) a statement of the nature of the adverse action; (b) the effective date of the action; (c) a statement of the reasons therefor in ordinary language; (d) a statement advising the employee of the right to answer the notice orally or in writing; and (e) a statement advising the employee of the time within which an appeal must be filed. The notice shall be filed with the board not later than 15 calendar days after the effective date of the adverse action.

CHAPTER 697

An act to amend Section 19140 of, and to add Section 19144 to, the Government Code, relating to state civil service.

[Approved by Governor September 2, 1982. Filed with Secretary of State September 2, 1982.]

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

SECTION 1. Section 19140 of the Government Code is amended to read:

19140. In addition to reinstatement required under any other section, an appointing power may in his discretion, reinstate any person having probationary or permanent status who was separated from his position (a) by resignation, (b) by service retirement, (c) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (d) under the provisions of Section 19503, or (e) without a break in continuity of state service to accept another civil service or exempt appointment.

Such reinstatement shall be:

(a) Subject to board rule; and

(b) Within three years unless the employee, other than members of the California Highway Patrol, has remained in state service without a break in the continuity of state service due to a permanent separation; and

(c) Subject to certification regarding eligibility pursuant to Section 20983.5, if applicable; and

(d) To a vacant position

(1) In the class vacated or from which separated, or

(2) In a lower class in the same series, or

(3) In a lower class in a related series requiring similar types of qualifications, knowledge, and abilities, or

(4) In another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range; and

(e) Within five years for a state employee who was a miscellaneous member and who retired prior to January 1, 1979, due to mandatory retirement age provisions then in effect.

An employee separated from state service by layoff, or by resignation in lieu of layoff, may be reinstated at the discretion of the appointing power within five years or throughout the duration of the employee's reemployment list eligibility, whichever is longer; provided, however, that the reinstatement shall be subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

For reinstatement after separation, the time spent (a) in a position which is exempt from civil service or (b) as a temporary employee in another governmental agency engaged in a technical cooperation

program under an agreement approved by the state or (c) in the recognized military service shall not be considered in computing the three-year period or the five-year period prescribed by this section.

SEC. 2. Section 19144 is added to the Government Code, to read:

19144. Subject to Sections 21152 and 21153, a person who has retired from state service may be employed temporarily in a civil service position at any time following retirement, provided that the position is either:

(a) In the class in which the person had permanent or probationary status at the time of retirement.

(b) In another class to which the person could have been permanently transferred, reinstated, or demoted at the time of retirement.

CHAPTER 698

An act to amend Section 44203 of the Education Code, relating to school employees.

[Approved by Governor September 4, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 44203 of the Education Code is amended to read:

44203. As used in this chapter:

(a) "Commission" means the Commission on Teacher Credentialing.

Whenever the term "Commission for Teacher Preparation and Licensing" appears in any law or regulation, it means the Commission on Teacher Credentialing.

(b) "Approved institution" means any institution approved by the commission.

(c) "Subject matter examination" means any objective examination approved by the commission as an instrument to measure subject matter knowledge. Successful passage of a subject matter examination or its waiver shall be mandatory for any intern or any applicant for a teaching credential.

(d) "Professional preparation" means either (1) at least nine semester units of professional education courses and one semester of approved full-time student teaching or its equivlent under the supervision of an approved college or university, or (2) an approved internship program of at least one year.

(e) "Fifth year" means a full academic year, or its equivalent, taken at an approved college or university after completion of a baccalaureate program. Institutions of higher education and public schools may be authorized to attest to a teacher's completion of this

requirement. Minimum requirements for teaching credentials shall not include more than the equivalent of one-fifth of a five-year program in, or one year of, professional preparation of which at least one-half will be in student teaching.

(f) "In-service training" means any program of teacher education or preparation offered jointly by a school district and an approved college or university for the purposes of improving or upgrading a teacher's skills, knowledge, or instructional methods which is offered for credit and is approved by the commission.

(g) "Authorization" means the designation appearing on the teaching or service credential identifying the areas of instruction or service which the credential holder is permitted to perform.

(h) "Any grades" and "all grades" means grade 12 or below.

(i) "Rules, regulations, and determinations" means every rule, regulation, order, standard, or determination of general application or the amendment, supplement, or revision of any such rule, regulation, order, standard, or determination adopted by the commission to implement, interpret, or make specific the law enforced and administered by the commission.

CHAPTER 699

An act to add and repeal Chapter 1.8 (commencing with Section 13195) of Part 2 of Division 12 of the Health and Safety Code, relating to fire extinguisher systems.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Chapter 1.8 (commencing with Section 13195) is added to Part 2 of Division 12 of the Health and Safety Code, to read:

CHAPTER 1.8. AUTOMATIC FIRE EXTINGUISHER SYSTEMS

13195. The State Fire Marshal shall adopt and administer the regulations and building standards he or she deems necessary in order to (1) establish and control a program for servicing, testing, and maintaining all automatic fire extinguishing systems, including but not limited to, fire sprinkler systems, engineered and preengineered fixed extinguishing systems, standpipe systems, and water flow alarm devices and (2) establish minimum frequencies of service, inspection, and testing for the various types of automatic fire extinguishing systems. All tests of automatic sprinkler systems shall include a test of all supervisory signaling equipment that is provided to determine whether a condition exists that will impair the satisfactory operation of the system.

The regulations and building standards established by the State Fire Marshal for servicing, testing, and maintaining automatic fire extinguishing systems shall consider the requirements of the applicable standards of the National Fire Protection Association and the voluntary standards published by the State Fire Marshal entitled the "California Voluntary Standards for Residential Sprinkler Systems," dated January 1982.

13195.5. Every automatic fire extinguishing system, including, but not limited to, fire sprinkler systems, engineered and preengineered fixed extinguishing systems, standpipe systems, and alarm and supervisory equipment attached to those systems shall be serviced, tested, and maintained in accordance with the regulations and building standards adopted by the State Fire Marshal pursuant to Section 13195.

13196. The regulations and building standards adopted pursuant to Section 13195 shall be enforced pursuant to Sections 13145 and 13146.

13196.5. (a) Except as provided in subdivisions (b) and (c), no person shall engage in the business of servicing or testing automatic fire extinguishing systems without a license issued by the State Fire Marshal pursuant to this chapter.

(b) Persons who engage in the business of servicing or testing fire alarm devices, water flow alarm devices, or the supervisory signaling components of automatic fire extinguishing systems shall not be subject to the licensing requirements contained in this chapter.

(c) Industrial systems may be serviced or tested by, or under the supervision of, an engineer employed by a private entity who shall not be subject to the licensing requirements contained in this chapter unless he or she performs the service or testing for a fee outside of the employment relationship.

13197. The State Fire Marshal shall adopt regulations to establish and maintain the licensing program required by this chapter. To the extent the State Fire Marshal determines is necessary to carry out the provisions of this chapter, the regulations may provide for, but need not be limited to, requirements that the applicant for a license pass an examination or possess the qualifications necessary to perform the prescribed service, maintenance, and testing, or both.

13197.5. A license may be denied or revoked by the State Fire Marshal for either of the following reasons:

(a) The applicant made a material misrepresentation or false statement in the application.

(b) Violation of any provision of this chapter or any regulation adopted by the State Fire Marshal pursuant to this chapter.

13198. The State Fire Marshal shall adopt a schedule of fees to be paid by licensees in an amount which is necessary to cover the cost of administering and enforcing the provisions of this chapter by the State Fire Marshal. Any city or county fire department, or any district providing fire protection services may adopt a schedule of fees as required to cover the cost of enforcing the provisions of this

chapter.

13198.5. It is the legislative intention in enacting this chapter that the provisions of this chapter and the regulations and building standards adopted by the State Fire Marshal pursuant to Section 13195 shall apply uniformly throughout the State of California, and no state agency, county, city and county, or district shall adopt or enforce any ordinance or rule or regulation regarding automatic fire extinguishing systems which is inconsistent with the provisions of this chapter or the regulations and standards adopted by the State Fire Marshal.

13199. Any person who violates any provisions of this chapter or any regulation or building standard adopted by the State Fire Marshal pursuant to Section 13195 is guilty of a misdemeanor punishable by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than six months, or by both such fine and imprisonment.

A person is guilty of a separate offense each day during which he or she commits, continues, or permits a violation of this chapter or any regulation or building standards adopted pursuant to this chapter.

13199.5. This chapter shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 700

An act to amend Section 16302.1 of the Government Code, to amend Sections 18591.1, 18592, 18593, 23186, and 25666 of, and to add Sections 17208, 18685.08, 19412, 20645.7, 20645.9, 24349, and 25662.1 to, the Revenue and Taxation Code, and to amend Section 5 of Chapter 903 of the Statutes of 1980, relating to taxation.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 16302.1 of the Government Code is amended to read:

16302.1. Whenever any person pays to any state agency pursuant to law an amount covering taxes, penalties, interest, license or other fees, or any other payment, and it is subsequently determined by the state agency responsible for the collection thereof that such amount includes an overpayment of ten dollars ($10) or less of the amount due the state pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of such overpayment may be disposed of in either of the following ways:

(1) The state agency responsible for the collection to which the overpayment relates may apply the amount of such overpayment as a payment by such person on any other taxes, penalties, interest, license or other fees, or any other amount due the state from such person; provided, such state agency is responsible by law for the collection to which such overpayment is to be applied as a payment.

(2) Upon written request of the state agency responsible for the collection to which the overpayment relates, the amount of such overpayment shall, on order of the Controller, be deposited as revenue in the fund in the State Treasury into which such collection, exclusive of overpayments, is required by law to be deposited.

The State Board of Control may adopt rules and regulations to permit state agencies to retain such overpayments where a demand for refund permitted by law is not made within six months after the refund becomes due; and such retained overpayments shall belong to the state.

Except as provided in the foregoing paragraph, the provisions of this section shall not affect the right of any person making overpayment of any amount to the state to make claim for refund of such overpayment, nor the authority of any state agency or official to make payment of any amount so claimed, if otherwise authorized by law.

SEC. 1.5. Section 17208 is added to the Revenue and Taxation Code, to read:

17208. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For taxable years beginning after December 31, 1958, the term "reasonable allowance" as used in subdivision (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method.

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) Paragraphs (2), (3), and (4) of subdivision (b) shall apply only in the case of property (other than intangible property) described in subdivision (a) with a useful life of three years or more—

(1) The construction, reconstruction, or erection of which is completed after December 31, 1958, and then only to that portion of the basis which is properly attributable to the construction, reconstruction, or erection after December 31, 1958; or

(2) Acquired after December 31, 1958, if the original use of such property commences with the taxpayer and commences after that date.

(d) This section shall become operative on January 1, 1984.

SEC. 2. Section 18591.1 of the Revenue and Taxation Code is amended to read:

18591.1. (a) For purposes of this part, the term "deficiency" means the amount by which the tax imposed by this part exceeds the excess of—

(1) The sum of—

(A) The amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) The amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) The amount of rebates, as defined in paragraph (2) of subdivision (b), made.

(b) For purposes of this section—

(1) The tax imposed by this part and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, and without regard to the credit under Section 18551.1.

(2) The term "rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by this part was less than the excess of the amount specified in paragraph (1) of subdivision (a) over the rebates previously made.

(3) The term "deficiency" shall include the amount by which a credit subject to carryover is reduced by any action of the Franchise Tax Board.

SEC. 3. Section 18592 of the Revenue and Taxation Code is amended to read:

18592. If a protest is filed, the Franchise Tax Board shall reconsider the assessment of the deficiency and, if the taxpayer has

so requested in his protest, shall grant the taxpayer or his authorized representatives an oral hearing. The Franchise Tax Board may act on the protest in whole or in part. In the event the Franchise Tax Board acts on the protest in part only, the remaining part of the protest shall continue to be under protest until the Franchise Tax Board acts on that part.

SEC. 4. Section 18593 of the Revenue and Taxation Code is amended to read:

18593. The Franchise Tax Board's action upon the protest, whether in whole or in part, is final upon the expiration of 30 days from the date when it mails notice of its action to the taxpayer, unless within that 30-day period the taxpayer appeals in writing from the action of the Franchise Tax Board to the board.

SEC. 5. Section 18685.08 is added to the Revenue and Taxation Code, to read:

18685.08. (a) In addition to the criminal penalty provided by Section 19412, any tax preparer who endorses or otherwise negotiates (directly or through an agent) any warrant made in respect of the taxes imposed by this part which is issued to a taxpayer (other than the tax preparer) shall pay a penalty of two hundred fifty dollars ($250) with respect to each such warrant. The preceding sentence shall not apply with respect to the deposit by a bank (as defined by Section 581 of the Internal Revenue Code) of the full amount of the warrant in the taxpayer's account in that bank for the benefit of the taxpayer.

(b) For purposes of subdivision (a), "tax preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this part or any claim for refund of tax imposed by this part. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of that return or claim for refund.

A person shall not be a "tax preparer" merely because the person—

(1) Furnishes typing, reproducing, or other mechanical assistance.

(2) Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom that person is regularly and continuously employed.

(3) Prepares as a fiduciary a return or claim for refund for any person.

(c) This section shall not apply where the tax preparer has advanced the taxpayer an amount of money equal to or greater than the amount of the taxpayer's refund.

SEC. 6. Section 19412 is added to the Revenue and Taxation Code, to read:

19412. Any tax preparer, as defined in subdivision (b) of Section 18685.08, who endorses or otherwise negotiates (directly or through an agent) any warrant made in respect of the taxes imposed by this

part which is issued to a taxpayer (other than the tax preparer) shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one year, or both, together with the costs of prosecution.

This section shall not apply where the tax preparer has advanced the taxpayer an amount of money equal to or greater than the amount of the taxpayer's tax refund.

SEC. 7. Section 20645.7 is added to the Revenue and Taxation Code, to read:

20645.7. (a) In addition to the criminal penalty provided by Section 20645.9, any tax preparer who endorses or otherwise negotiates (directly or through an agent) any warrant made with respect to assistance claimed under this part which is issued to a claimant (other than the tax preparer) shall pay a penalty of two hundred fifty dollars ($250) with respect to each such warrant. The preceding sentences shall not apply with respect to the deposit by a bank (as defined by Section 581 of the Internal Revenue Code) of the full amount of the warrant in the claimant's account in that bank for the benefit of the claimant.

(b) For purposes of subdivision (a), "tax preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any claim for assistance under this part. For purposes of the preceding sentence, the preparation of a substantial portion of such a claim shall be treated as if it were the preparation of the claim.

A person shall not be a "tax preparer" merely because the person—

(1) Furnishes typing, reproducing, or other mechanical assistance.

(2) Prepares as a fiduciary a claim for assistance for any person.

(c) This section shall not apply where the tax preparer has advanced the taxpayer an amount of money equal to or greater than the amount of the taxpayer's tax refund.

SEC. 8. Section 20645.9 is added to the Revenue and Taxation Code, to read:

20645.9. Any tax preparer, as defined in subdivision (b) of Section 20645.7, who endorses or otherwise negotiates (directly or through an agent) any warrant made with respect to assistance claimed under this part which is issued to a claimant (other than the tax preparer) shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than one year, or both, together with the costs of prosecution.

This section shall not apply where the tax preparer has advanced the taxpayer an amount of money equal to or greater than the amount of the taxpayer's tax refund.

SEC. 9. Section 23186 of the Revenue and Taxation Code is amended to read:

23186. (a) Except as otherwise provided in subdivision (b) or subdivision (c), the rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income, allocable to this state, of every corporation taxable under Section 23151 or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this state as franchise taxes according to or measured by such net income, and required to be paid to this state or its political subdivisions by such corporations as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 13 percent. The percentage of the net income of every corporation taxable under Section 23151, or subdivision (c) of Section 23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, required to be paid to this state or its political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes, less 9 percent thereof, bears to the total amount of net income of such corporations allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this state or its political subdivisions during the preceding calendar year or fiscal year ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

(b) For income years ending in 1980, the rate of tax on banks and financial corporations shall be 11.6 percent. For income years ending in 1981 and thereafter, the rate shall be the rate prescribed in subdivision (d) of Section 23151, plus 2.0 percent.

(c) For income years ending in 1982 and thereafter, the rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income, allocable to this state, of every corporation taxable under Section 23151 or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this state as franchise taxes according to or measured by such net income, and required to be paid to this state or its political subdivisions by such corporations as personal property taxes and business license taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 12 percent. The percentage of the net income of every corporation taxable under Section 23151, or subdivision (c) of Section

23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, required to be paid to this state or its political subdivisions in personal property taxes and business license taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes and business license taxes, less the rate prescribed in subdivision (e) or (f) of Section 23151, whichever is the applicable percent thereof, bears to the total amount of net income of such corporations allocable to California, increased by the amount of such personal property taxes and business license taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes and business license taxes required to be paid by such corporation to this state or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes and business license taxes exceed such net loss allocable to California.

(d) For income years ending in 1982 and thereafter, for the purposes of subdivision (c), the total amount of personal property taxes and business license taxes required to be paid during the income year shall be based on a statistical sample by the Franchise Tax Board, consisting of all of the following:

(1) Every corporation with a net income of more than five million dollars ($5,000,000) for the income year.

(2) Every corporation required to pay one hundred thousand dollars ($100,000) or more of personal property tax or business license tax, or a combination thereof, during the income year.

(3) Two percent or more of all other corporations on a random basis.

For the purposes of this subdivision, corporation means a corporation taxable under Section 23151, or subdivision (c) of Section 23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act.

(e) For the purpose of verifying local business license taxes reported by corporations taxable under Section 23151, or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, the Franchise Tax Board is authorized to receive source information listings directly from the cities as to the amount of business license taxes paid and the date of payment for each taxpayer subject to the business license tax, notwithstanding any city ordinance prohibiting that disclosure.

(f) The Franchise Tax Board shall redetermine the rate of tax for banks and corporations determined in 1979 (and 1980 if applicable), taking into account additional local tax billings prior to January 1, 1982, resulting from the final court decision not to uphold the application of the tax rate provided by Article XIII A of the

Constitution to the 1978–79 unsecured roll. Any additional taxes resulting from the redetermined rate will be due and payable within 30 days of mailing of a notice and demand by the Franchise Tax Board. In making the redetermination, the Franchise Tax Board shall utilize the statistical sampling method provided in subdivision (d), except that business license taxes shall not be taken into account.

SEC. 10. Section 24349 is added to the Revenue and Taxation Code, to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For income years ending after December 31, 1958, the term "reasonable allowance" as used in subdivision (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method.

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) This section shall become operative on January 1, 1984.

SEC. 11. Section 25662.1 is added to the Revenue and Taxation Code, to read:

25662.1. (a) For purposes of this part, the term "deficiency" means the amount by which the tax imposed by this part exceeds the excess of—

(1) The sum of—

(A) The amount shown as the tax by the taxpayer upon its return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) The amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) The amount of rebates, as defined in paragraph (2) of subdivision (b), made.

(b) For purposes of this section—

(1) The tax imposed by this part and the tax shown on the return shall both be determined without regard to payments on account of

estimated tax.

(2) "Rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by this part was less than the excess of the amount specified in paragraph (1) of subdivision (a) over the rebates previously made.

(3) The term "deficiency" shall include the amount by which a credit subject to carryover is reduced by any action of the Franchise Tax Board.

SEC. 12. Section 25666 of the Revenue and Taxation Code is amended to read:

25666. (a) If a protest is filed, the Franchise Tax Board shall reconsider the proposed assessment, and if the taxpayer has so requested in its protest, shall grant the taxpayer, or its authorized representatives an oral hearing. The Franchise Tax Board may act on the protest in whole or in part. In the event the Franchise Tax Board acts on the protest in part only, the remaining part of the protest shall continue to be under protest until the Franchise Tax Board acts on that part.

(b) The Franchise Tax Board's action upon the protest is final, whether in whole or in part, upon the expiration of 30 days from the date when it mails notice of its action to the taxpayer unless within the 30-day period the taxpayer appeals in writing from the action of the Franchise Tax Board to the board.

SEC. 13. Section 5 of Chapter 903 of the Statutes of 1980 is amended to read:

Sec. 5. The provisions of this act shall have no force or effect in the computation of taxes for taxable years and income years which begin after December 31, 1983; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1984; and provided further, that the 36-month period for depreciation of a solar energy system and allowable conservation measures may, if begun in taxable years and income years prior to January 1, 1984, be continued beyond that date until the 36-month period is completed.

The provisions of this act shall remain in effect only until January 1, 1984, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date; however, the provisions of Sections 1 and 2 of this act shall be used in the computation of taxes for taxable years beginning before January 1, 1984, and the provisions of Sections 3 and 4 of this act shall be used in the computation of taxes for income years beginning before January 1, 1984.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 701

An act to amend Section 22229 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 22229 of the Education Code is amended to read:

22229. The members of the Teachers' Retirement Board who are not members of the system and who are appointed by the Governor pursuant to Section 22200 shall receive one hundred dollars ($100) for every day of actual attendance at meetings of the board or any meeting of any committee of the board of which committee such person is a member, and which committee is conducted for the purpose of carrying out the powers and duties of the board, together with their necessary traveling expenses incurred in connection with performance of their official duties.

CHAPTER 702

An act to amend Sections 18530, 19080, and 19080.5 of, and to add Section 19080.3 to, the Government Code, relating to state employees.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 18530 of the Government Code is amended to read:

18530. "Limited term employee" means an employee whose appointment as a result of reinstatement or certification from an employment list shall not exceed two years, as specified by Section 19080.3.

SEC. 2. Section 19080 of the Government Code is amended to read:

19080. Whenever an appointing power requires the appointment of a person on a limited term basis, the request for certification shall state the duration of the position.

SEC. 3. Section 19080.3 is added to the Government Code, to read:

19080.3. Limited term appointments shall be made only for temporary staffing needs and shall not individually or consecutively exceed one year, provided that the board may authorize limited term appointments of up to a total of two years' duration when a permanent appointment would be likely to cause a layoff, demotion, or mandatory transfer requiring a change of residence upon the conclusion of the temporary staffing need. Limited term appointments may be extended within the time limits prescribed by this section without making an additional appointment.

SEC. 4. Section 19080.5 of the Government Code is amended to read:

19080.5. (a) Notwithstanding Section 19080.3, a limited term appointment for a period not to exceed two years may be made to professional education classifications established for use by the Department of Education to facilitate the professional development of experienced professional educators. Any individual may not receive more than one such appointment within a five-year period. The number of such appointments at any point in time shall not exceed 10 percent of the professional education staff employed by the Department of Education. The request for certification shall state the duration of the appointment. The provisions of this section shall not apply to any person employed by the Department of Education in a civil service position on the effective date of this section.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

CHAPTER 703

An act to amend Section 27454 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 27454 of the Vehicle Code is amended to read:

27454. No tire on any vehicle upon any highway shall have on its

periphery any block, stud, flange, cleat, ridge, bead, or any other protuberance of metal or wood which projects beyond the tread of the traction surface of the tire.

This section does not apply to the following:

(a) Tire chains of reasonable size used to prevent skidding when upon wet surfaces or when upon snow or ice.

(b) Pneumatic tires which have embedded therein wire not to exceed 0.075 of an inch in diameter and which are so constructed that under no conditions will the percentage of metal in contact with the roadway exceed 5 percent of the total tire area in contact with the roadway, except that during the first 1,000 miles of use or operation of any such tire, the metal in contact with the roadway may exceed 5 percent of the tire area in contact with the roadway, but shall in no event exceed 20 percent of such area.

(c) Vehicles operated upon unimproved roadways when necessary in the construction or repair of highways.

(d) Traction engines or tractors when operated under the conditions of a permit first obtained from the Department of Transportation.

(e) Pneumatic tires containing metal-type studs of tungsten carbide or other suitable material and which are so inserted or constructed that under no conditions will the number of studs or the percentage of metal in contact with the roadway exceed 3 percent of the total tire area in contact with the roadway, between the first day of November and the first day of April. The Commissioner of the California Highway Patrol, after consultation with the Department of Transportation, may extend the period during which studded pneumatic tires may be used in any area of the state for the protection of the public because of adverse weather conditions.

This subdivision shall remain in effect until April 1, 1984, and shall have no force or effect after that date.

(f) Pneumatic tires used on an authorized emergency vehicle as defined in Section 165, containing metal-type studs of tungsten carbide or other suitable material, and which are so inserted or constructed that under no conditions will the number of studs or the percentage of metal in contact with the roadway exceed 3 percent of the total tire area in contact with the roadway. Notwithstanding subdivision (e), emergency vehicles shall be permitted the unrestricted use of pneumatic tires throughout the year.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the period, within which the use of pneumatic metal studded tires is permitted, may be extended for the protection of drivers upon the highways from hazards resulting from unpredictable and often severe snowstorms, it is necessary that this act take effect immediately.

CHAPTER 704

An act to amend Sections 396b, 431.10, 435, 472a, 585, 586, 589, and 591 of, and to add Sections 436, 437, and 1019.5 to, and to repeal Section 453 of, the Code of Civil Procedure, relating to procedure in civil cases.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 396b of the Code of Civil Procedure is amended to read:

396b. (a) Except as otherwise provided in Section 396a, if an action or proceeding is commenced in a court having jurisdiction of the subject matter thereof, other than the court designated as the proper court for the trial thereof, under the provisions of this title, the action may, notwithstanding, be tried in the court where commenced, unless the defendant, at the time he or she answers, demurs, or moves to strike, or, at his or her option, without answering, demurring, or moving to strike and within the time otherwise allowed to respond to the complaint, files with the clerk, or with the judge if there is no clerk, a notice of motion for an order transferring the action or proceeding to the proper court, together with proof of service, upon the adverse party, of a copy of such papers. Upon the hearing of such motion the court shall, if it appears that the action or proceeding was not commenced in the proper court, order the action or proceeding transferred to the proper court.

(b) In its discretion, the court may order the payment to the prevailing party of reasonable expenses and attorney's fees incurred in making or resisting such motion whether or not such party is otherwise entitled to recover his or her costs of action. In determining whether such order for expenses and fees shall be made, the court shall take into consideration (1) whether an offer to stipulate to change of venue was reasonably made and rejected, and (2) whether such motion or selection of venue was made in good faith given the facts and law the party making the motion or selecting the venue knew or should have known. As between the party and his or her attorney, such expenses and fees shall be the personal liability of the attorney not chargeable to the party.

(c) The court in a proceeding for dissolution of marriage or legal separation, may, prior to the determination of the motion to transfer, consider and determine motions for allowance of temporary alimony, support of children, counsel fees and costs, and make all necessary and proper orders in connection therewith.

(d) In any case, if an answer is filed, the court may consider opposition to the motion to transfer, if any, and may retain the action in the county where commenced if it appears that the convenience

of the witnesses or the ends of justice will thereby be promoted.

(e) If the motion to transfer is denied, the court shall allow the defendant time to move to strike, demur, or otherwise plead if the defendant has not previously filed a response.

SEC. 2. Section 431.10 of the Code of Civil Procedure is amended to read:

431.10. (a) A material allegation in a pleading is one essential to the claim or defense, which could not be stricken from the pleading without leaving it insufficient.

(b) An immaterial allegation is any of the following:

(1) An allegation that is not essential to the claim or defense.

(2) An allegation that has no proper relationship to a claim or defense otherwise properly pleaded.

(3) A demand for judgment requesting relief not supported by the allegations of the complaint or cross-complaint.

(c) An "immaterial allegation" means "irrelevant matter" as that term is used in Sections 436 and 589.

SEC. 3. Section 435 of the Code of Civil Procedure is amended to read:

435. (a) As used in this section:

(1) The term "complaint" includes a cross-complaint.

(2) The term "pleading" means a demurrer, answer, complaint, or cross-complaint.

(b) (1) Any party, within the time allowed to respond to a pleading may serve and file a notice of motion to strike the whole or any part thereof.

(2) A notice of motion to strike the answer or the complaint, or a portion thereof, shall specify a hearing date set in accordance with Section 1005.

(3) A notice of motion to strike a demurrer, or a portion thereof, shall set the hearing thereon concurrently with the hearing on the demurrer.

(c) If a party serves and files a notice of motion to strike without demurring to the complaint, the time to answer is extended and no default may be entered against that defendant, except as provided in Sections 585 and 586.

(d) The filing of a notice of motion to strike an answer or complaint, or portion thereof, shall not extend the time within which to demur.

SEC. 3.5. Section 436 is added to the Code of Civil Procedure, to read:

436. The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper:

(a) Strike from any pleading any irrelevant, false, or improper matter inserted therein.

(b) Strike any pleading or part thereof not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.

SEC. 4. Section 437 is added to the Code of Civil Procedure, to

read:

437. (a) The grounds for a motion to strike shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice.

(b) Where the motion to strike is based on matter of which the court may take judicial notice pursuant to Section 452 or 453 of the Evidence Code, such matter shall be specified in the notice of motion, or in the supporting points and authorities, except as the court may otherwise permit.

SEC. 5. Section 453 of the Code of Civil Procedure is repealed.

SEC. 6. Section 472a of the Code of Civil Procedure is amended to read:

472a. (a) A demurrer is not waived by an answer filed (or entered in the docket in the justice court) at the same time.

(b) Except as otherwise provided by rule adopted by the Judicial Council, when a demurrer to a complaint or to a cross-complaint is overruled and there is no answer filed (or entered), the court shall allow an answer to be filed (or entered) upon such terms as may be just. If a demurrer to the answer is overruled, the action shall proceed as if no demurrer had been interposed, and the facts alleged in the answer shall be considered as denied to the extent mentioned in Section 431.20.

(c) When a demurrer is sustained, the court may grant leave to amend the pleading and shall fix the time within which the amendment or amended pleading shall be filed, or entered in the docket.

SEC. 6.5. Section 585 of the Code of Civil Procedure is amended to read:

585. Judgment may be had, if the defendant fails to answer the complaint, as follows:

(a) In an action arising upon contract or judgment for the recovery of money or damages only, if the defendant has, or if more than one defendant, if any of the defendants have, been served, other than by publication, and no answer, demurrer, notice of motion to strike (of the character hereinafter specified), notice of motion to transfer pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10, or notice of the filing of a petition for writ of mandate as provided in Section 418.10 has been filed with the clerk or judge of the court within the time specified in the summons, or such further time as may be allowed, the clerk, or the judge if there is no clerk, upon written application of the plaintiff, and proof of the service of summons, shall enter the default of the defendant or defendants, so served, and immediately thereafter enter judgment for the principal amount demanded in the complaint or a lesser amount if credit has been acknowledged, together with interest allowed by law or in accordance with the terms of the contract, and the costs against the defendant, or defendants, or against one or more of the defendants. If, by rule of court, a schedule of attorneys' fees to be allowed has

been adopted, the clerk may include in the judgment attorneys' fees in accordance with such schedule (1) if the contract provides that attorneys' fees shall be allowed in the event of an action thereon, or (2) if the action is one in which the plaintiff is entitled by statute to recover attorneys' fees in addition to money or damages. The plaintiff shall have the right, however, upon filing a written request at the time of application for entry of the default of the defendant or defendants, to have attorneys' fees fixed by the court, whereupon, after the entry of the default, the court shall hear the application for determination of the attorneys' fees and shall render judgment for such fees and for the other relief demanded in the complaint, or a lesser amount if credit has been acknowledged, and the costs against the defendant, or defendants, or against one or more of the defendants.

(b) In other actions, if the defendant has been served, other than by publication, and no answer, demurrer, notice of motion to strike (of the character hereinafter specified), notice of motion to transfer pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10 or notice of the filing of a petition for writ of mandate as provided in Section 418.10 has been filed with the clerk or judge of the court within the time specified in the summons, or such further time as may be allowed, the clerk, or the judge if there is no clerk, upon written application of the plaintiff, shall enter the default of the defendant. The plaintiff thereafter may apply to the court for the relief demanded in the complaint; the court shall hear the evidence offered by the plaintiff, and shall render judgment in his or her favor for such sum (not exceeding the amount stated in the complaint), as appears by such evidence to be just. If the taking of an account, or the proof of any fact, is necessary to enable the court to give judgment or to carry the judgment into effect, the court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. If the action is for the recovery of damages, in whole or in part, the court may order the damages to be assessed by a jury; or if, to determine the amount of damages, the examination of a long account is involved by a reference as above provided.

(c) In all actions where the service of the summons was by publication the plaintiff, upon the expiration of the time for answering, may, upon proof of the publication, and that no answer, demurrer, notice of motion to strike (of the character hereinafter specified), notice of motion to transfer pursuant to Section 396b, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10, or notice of the filing of a petition for writ of mandate as provided in Section 418.10 has been filed, apply in writing for judgment. The court shall thereupon require proof to be made of the allegations of the complaint; and if the defendant is not a resident of the state, shall require the plaintiff, or his agent, to be examined, on oath, respecting any payments that

have been made to the plaintiff, or to anyone for his or her use, on account of any demand mentioned in the complaint, and may render judgment for the amount which he or she is entitled to recover. In all cases affecting the title to or possession of real property, where the service of the summons was by publication and the defendant has failed to answer, no judgment shall be rendered upon proof of mere occupancy, unless such occupancy shall have continued for the time and shall have been of the character necessary to confer title by prescription. In all cases where the plaintiff bases his or her claim upon a paper title, the court shall require evidence establishing plaintiff's equitable right to judgment before rendering judgment. In actions involving only the possession of real property where the complaint is verified and shows by proper allegations that no party to the action claims title to the real property involved, either by prescription, accession, transfer, will, or succession, but only the possession thereof, the court may render judgment upon proof of occupancy by plaintiff and ouster by defendant.

A notice of motion to strike within the meaning of this section is a notice of motion to strike the whole or any part of a pleading filed within the time which the moving party is required otherwise to plead to such pleading. The notice of motion to strike shall specify a hearing date set in accordance with Section 1005. The filing of such notice of motion does not extend the time within which to demur.

(d) In the cases referred to in subdivisions (b) and (c), or upon an application to have attorneys' fees fixed by the court pursuant to subdivision (a), the court in its discretion may permit the use of affidavits, in lieu of personal testimony, as to all or any part of the evidence or proof required or permitted to be offered, received, or heard in such cases. The facts stated in such affidavit or affidavits shall be within the personal knowledge of the affiant and shall be set forth with particularity, and each affidavit shall show affirmatively that the affiant, if sworn as a witness, can testify competently thereto.

SEC. 7. Section 586 of the Code of Civil Procedure is amended to read:

586. In the following cases the same proceedings shall be had, and judgment shall be rendered in the same manner, as if the defendant had failed to answer:

1. If the complaint has been amended, and the defendant fails to answer it, as amended, or demur thereto, or file a notice of motion to strike, of the character specified in Section 585, within 30 days after service thereof or within the time allowed by the court.

2. If the demurrer to the complaint is overruled and a motion to strike, of the character specified in Section 585, is denied, or where only one thereof is filed, if the demurrer is overruled or the motion to strike is denied, and the defendant fails to answer the complaint within the time allowed by the court.

3. If a motion to strike, of the character specified in Section 585, is granted in whole or in part, and the defendant fails to answer the unstricken portion of the complaint within the time allowed by the

court, no demurrer having been sustained or being then pending.

4. If a motion to quash service of summons or to stay or dismiss, the action has been filed or writ of mandate sought and notice thereof given, as provided in Section 418.10, and upon denial of such motion or writ, defendant fails to plead to the complaint, within the time provided in such section or as otherwise provided by law.

5. If the demurrer to the answer is sustained and the defendant fails to amend the answer within the time allowed by the court.

6. (a) If a motion to transfer pursuant to Section 396b is denied and the defendant fails to respond to the complaint within the time allowed by the court pursuant to subdivision (e) of Section 396b or within the time provided in subdivision (c).

(b) If a motion to transfer pursuant to Section 396b is granted and the defendant fails to respond to the complaint within 15 days of the mailing of notice of the filing and case number by the clerk of the court to which the action or proceeding is transferred or within the time provided in subdivision (c).

(c) If the order granting or denying a motion to transfer pursuant to Section 396a or 396b is the subject of an appeal pursuant to Section 904.2 or 904.3 in which a stay is granted or of a mandate proceeding pursuant to Section 400, the court having jurisdiction over the trial, upon application or on its own motion after such appeal or mandate proceeding becomes final or upon earlier termination of a stay, shall allow the defendant a reasonable time to respond to the complaint. Notice of the order allowing the defendant further time to respond to the complaint shall be promptly served by the party who obtained such order or by the clerk if the order is made on the court's own motion.

(d) For the purposes of this section, "to respond" means: to answer, to demur, or to move to strike.

SEC. 8. Section 589 of the Code of Civil Procedure is amended to read:

589. An issue of law arises:

(a) Upon a demurrer to the complaint, cross-complaint, or answer, or to some part thereof.

(b) Upon a motion to strike when the grounds thereof are that the matter inserted in the pleading is false, irrelevant, or improper.

SEC. 9. Section 591 of the Code of Civil Procedure is amended to read:

591. An issue of law must be tried by the court, unless it is referred upon consent; provided, however, that failure on the part of any person filing any demurrer to prosecute the same may be construed as a waiver of such demurrer, except as otherwise provided in Section 430.80 of this code.

SEC. 10. Section 1019.5 is added to the Code of Civil Procedure, to read:

1019.5. When a motion is granted or denied, unless the court otherwise orders, notice of the court's decision or order shall be given by the prevailing party to all other parties or their attorneys, in the

manner provided in this chapter, unless notice is waived by all parties in open court and is entered in the minutes.

CHAPTER 705

An act to amend Sections 43.7 and 43.8 of the Civil Code, and to amend Section 1157 of the Evidence Code, relating to immunity.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists or any member of the governing board of a hospital in

reviewing the quality of medical services rendered by members of the staff if such committee or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible licentiates in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon or podiatrist who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons or podiatrists for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon or podiatrist acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, professional society, or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, hospital, or professional society, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 2. Section 43.8 of the Civil Code is amended to read:

43.8. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, veterinary hospital staff professional society, medical, dental, or veterinary school, professional licensing board or division, committee or panel of such licensing board, peer review committee, quality assurance committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section

43.7 when such communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts and does not represent as true any matter not reasonably believed to be true. The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege which may be afforded by Section 47.

SEC. 3. Section 1157 of the Evidence Code is amended to read:

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

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

CHAPTER 706

An act to add Article 4.5 (commencing with Section 740) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Article 4.5 (commencing with Section 740) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 4.5. Special Provisions Regarding Health Coverage

740. (a) Notwithstanding any other provision of law, and except as provided herein, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the department unless the person or other entity shows that while providing such services it is subject to the jurisdiction of another agency of this or another state or the federal government.

(b) A person or entity may show that it is subject to the jurisdiction of another agency of this or another state or the federal government by providing to the commissioner the appropriate certificate or license issued by the other governmental agency which permits or qualifies it to provide those services for which it is licensed or certificated.

(c) Any person or entity which is unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government, shall submit to an examination by the commissioner to determine the organization and solvency of the person or the entity, and to determine whether or not such person or entity is in compliance with the applicable provisions of this code.

(d) Any person or entity unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government shall be subject to all appropriate provisions of this code regarding the conduct of its business.

(e) The department shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) which are not subject to the jurisdiction of another agency of this or another state or the federal government and which the department knows to be operating in this state. There shall be no liability of any kind on the part of the state, the department, and its employees for the accuracy of such list or for any comments made with respect to it.

(f) Any administrator licensed by the department who advertises or administers coverage in this state described in subdivision (a), which is provided by any person or entity described in subdivision (c), and where such coverage does not meet all pertinent requirements specified in this code and which is not provided or completely underwritten, insured or otherwise fully covered by an admitted life or disability insurer, hospital service plan or health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, and any production agency licensed by the department involved in the transaction, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of insurance or other coverage.

Any production agency obtaining knowledge of any coverage

relative to the content and scope of a hospital service plan or health care service plan, as required under this subdivision, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, such knowledge regarding the content and scope of the plan and, specifically, as to the lack of insurance by an admitted carrier or other qualified plan.

(g) A health care service plan, as defined in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, shall not be subject to the provisions of this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There are entities operating within this state which provide insurance coverage; however, they are not presently regulated. In order to protect the interests of consumers in this state, it is necessary that this act take effect immediately.

CHAPTER 707

An act to add and repeal Section 4511 of the Food and Agricultural Code, relating to fairs.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 4511 is added to the Food and Agricultural Code, to read:

4511. (a) All county fairs and citrus fruit fairs shall, prior to entering into a carnival contract, do both of the following:

(1) Notify all persons on the department's list of qualified carnival contractors of the contract opportunity at least 180 days prior to entering into the contract.

(2) Provide all applicants for the carnival contract a hearing before the board or governing authority on their proposal.

(b) If a county fair or citrus fruit fair enters into a carnival contract with a person other than the highest bidder, it shall submit a justification for that action to the department.

(c) No county fair or citrus fruit fair shall enter into a carnival contract for a term which exceeds three years without the approval of the department.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and

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

CHAPTER 708

An act to add Sections 6375.5 and 6901.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 6375.5 is added to the Revenue and Taxation Code, to read:

6375.5. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, new children's clothing which is sold to a nonprofit organization for its distribution without charge to elementary school children.

For purposes of this section, "nonprofit organization" means an organization which meets all of the following criteria:

(a) Is organized and operated for charitable purposes.

(b) Has exempt status under Section 23701d.

(c) Is engaged in the relief of poverty and distress.

(d) Distributes new children's clothing principally as a matter of assistance to recipients in distressed financial conditions.

SEC. 2. Section 6901.5 is added to the Revenue and Taxation Code, to read:

6901.5. When an amount represented by a person to a customer as constituting reimbursement for taxes due under this part is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the customer to the person, the amount so paid shall be returned by the person to the customer upon notification by the Board of Equalization or by the customer that such excess has been ascertained. In the event of his or her failure or refusal to do so, the amount so paid, if knowingly or mistakenly computed by the person upon an amount that is not taxable or is in excess of the taxable amount, shall be remitted by that person to this state. However, those amounts remitted to the state shall be credited by the board on any amounts due and payable under this part on the same transaction from the person by whom it was paid to this state and the balance, if any, shall constitute an

obligation due from the person to this state.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. It is the intent of the Legislature in enacting Section 2 of this act to make a procedural change in the manner in which the sales tax is remitted and to affect all applicable pending proceedings.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 1 of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 709

An act to amend Section 53112 of the Government Code, relating to telephones.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 53112 of the Government Code is amended to read:

53112. All systems shall be designed to meet the specific requirements of each community and public agency served by the system. Every system, whether basic or sophisticated, shall be designed to have the capability of utilizing at least three of the methods specified in Sections 53103 to 53106, inclusive, in response to emergency calls. The Legislature finds and declares that the most critical aspect of the design of any system is the procedure established for handling a telephone request for emergency services.

In addition, to maximize efficiency and utilization of the system, all pay telephones within each system shall, by December 31, 1985, enable a caller to dial "911" for emergency services, and to reach an operator by dialing "0", without the necessity of inserting a coin. At those "911" public safety answering points serving an area where 5 percent or more of the population, in accordance with the latest United States census information, speak a specific primary language other than English, operators who speak each such other language, in addition to English, shall be on duty or available through interagency telephone conference procedures at all times for "911" emergency services.

In addition, all systems shall require installation of a telecommunications device capable of servicing the needs of the deaf or severely hearing impaired at the "911" public safety

answering point or points. The device shall be compatible with devices furnished by telephone corporations pursuant to Section 2831 of the Public Utilities Code.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature has provided a fund and funding mechanism in Section 41140 of the Revenue and Taxation Code to pay local agency or school district costs incurred pursuant to this act.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 710

An act to amend Section 21100 of, and to add Section 21101.2 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. The Legislature finds and declares that the cruising of vehicles in business areas of cities and communities in this state for the purpose of socializing and assembling interferes with the conduct of business, wastes precious energy resources, impedes the progress of general traffic and emergency vehicles, and promotes the generation of local concentrations of air pollution and undesirable noise levels.

The Legislature further finds and declares that the remedies to prevent the massive traffic jams and the other undesirable effects of cruising, without unreasonably interfering with constitutionally protected rights to peacefully assemble, to be free from unreasonable search and seizure, and to be treated equally by the law, necessarily must vary depending upon local conditions, including, but not limited to, the local street width, businesses, hours of the day, and capability of the road to carry traffic.

Therefore, the Legislature declares that local regulation of local traffic problems caused by cruising in motor vehicles should be implemented by the local authorities.

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

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

(a) Regulating or prohibiting processions or assemblages on the

highways.

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

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) Regulating traffic by means of any person given temporary or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow.

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

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

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

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

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

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

(k) Regulating cruising. The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which shall be defined as the repetitive driving of a motor vehicle past a traffic control point in traffic which is congested at or near the traffic control point, as determined by a peace officer, within a specified time period and after the vehicle operator has been given an adequate written notice that further repetitive driving will be a violation of the ordinance or resolution. The ordinance or resolution shall include, but not be limited to, the maximum number of times, which shall be at least twice, that an operator may drive a motor vehicle past the control point within the time period before being subject to notice. No person is in violation of an ordinance or

resolution adopted pursuant to this subdivision unless that person has been given the written notice on a previous driving trip past the control point within the same time interval and then again passes the control point in that same time interval.

SEC. 3. Section 21101.2 is added to the Vehicle Code, to read:

21101.2. Local authorities may adopt rules and regulations by ordinance or resolution to provide that if a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, determines that the traffic load on a particular street or highway, or a portion thereof, is such that little or no vehicular flow is occurring and, additionally, if the peace officer finds that a significant number of vehicles are not promptly moving when an opportunity arises to do so, then the peace officer may divert vehicles, excepting public safety or emergency vehicles, from that street or highway, or portion thereof, subject to traffic congestion until such time as reasonably flowing traffic is restored.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that local authorities may regulate undesirable cruising on streets under their jurisdiction at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 711

An act to amend Section 10133.1 of, and to repeal Sections 10133.25 and 10133.35 of, the Business and Professions Code, and to add Section 2924.3 to the Civil Code, relating to loans.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. The provisions of subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with

Section 10237), and Article 7 (commencing with Section 10240) of this chapter and Section 1695.13 of the Civil Code do not apply to the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by such agency.

(c) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as an attorney at law, and the disbursements of such person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240) of this chapter, provided, such fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker or as a consumer finance lender when acting under the authority of such license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property if:

(1) The person makes collections on 10 or less of such loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year; or

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code, and the payments are deposited and maintained in the escrow

agent's trust account.

(j) Any person authorized in writing by a savings and loan association to act as an agent, as defined in Section 5053 of the Financial Code, of that savings and loan association, when acting under the authority of such written authorization.

SEC. 1.5. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. Subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with Section 10240) and Section 1695.13 of the Civil Code do not apply to any of the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by the agency.

(c) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an Act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), provided, the fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker, a consumer finance lender, or a commercial finance lender when acting under the authority of that license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or

on notes of owners in connection with loans secured directly or collaterally by liens on real property, if:

(1) The person makes collections on 10 or less of such loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year; or

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent's trust account.

(j) Any person authorized in writing by a savings and loan association to act as an agent, as defined in Section 5053 of the Financial Code, of that savings and loan association, when acting under the authority of such written authorization.

SEC. 2. Section 10133.25 of the Business and Professions Code is repealed.

SEC. 3. Section 10133.35 of the Business and Professions Code is repealed.

SEC. 4. Section 2924.3 is added to the Civil Code, to read:

2924.3. (a) Except as provided in subdivisions (b) and (c), a person who has undertaken as an agent of a mortgagee, beneficiary, or owner of a promissory note secured directly or collaterally by a mortgage or deed of trust on real property, to make collections of payments from an obligor under the note, shall mail the following notices, postage prepaid, to each mortgagee, beneficiary or owner for whom the agent has agreed to make collections from the obligor under the note:

(1) A copy of the notice of default filed in the office of the county recorder pursuant to Section 2924 on account of a breach of obligation under the promissory note on which the agent has agreed to make collections of payments, within 15 days after recordation.

(2) Notice that a notice of default has been recorded pursuant to Section 2924 on account of a breach of an obligation secured by a mortgage or deed of trust against the same property having priority over the mortgage or deed of trust securing the obligation described in paragraph (1), within 15 days after recordation or within three business days after the agent receives the information, whichever is later.

(3) Notice of the time and place scheduled for the sale of the real property pursuant to Section 2924f under a power of sale in a mortgage or deed of trust securing an obligation described in paragraphs (1) or (2), not less than 15 days before the scheduled date of the sale or not later than the next business day after the agent receives the information, whichever is later.

(b) An agent who has undertaken to make collections on behalf of mortgagees, beneficiaries or owners of promissory notes secured by mortgages or deeds of trust on real property shall not be required to comply with the provisions of sudivision (a) with respect to a mortgagee, beneficiary or owner who is entitled to receive notice pursuant to subdivision (3) of Section 2924b or for whom a request

for notice has been recorded pursuant to subdivision (2) of Section 2924b if the agent reasonably believes that the address of the mortgagee, beneficiary, or owner described in Section 2924b is the current business or residence address of that person.

(c) An agent who has undertaken to make collections on behalf of mortgagees, beneficiaries or owners of promissory notes secured by mortgages or deeds of trust on real property shall not be required to comply with the provisions of paragraph (1) or (2) of subdivision (a) if the agent knows or reasonably believes that the default has already been cured by or on behalf of the obligor.

(d) Any failure to comply with the provisions of this section shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 2591 are both chaptered and become effective January 1, 1983, both bills amend Section 10133.1 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 2591, that the amendments to Section 10133.1 proposed by both bills be given effect and incorporated in Section 10133.1 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 2591 are both chaptered and become effective January 1, 1983, both amend Section 10133.1, and this bill is chaptered after Assembly Bill 2591, in which case Section 1 of this act shall not become operative.

CHAPTER 712

An act to amend Section 6555 of the Elections Code, relating to elections.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 6555 of the Elections Code is amended to read:

6555. (a) Notwithstanding any other provision of this article, a candidate may submit a petition containing signatures of registered voters in lieu of a filing fee as follows:

(1) For the office of California State Assembly, 1,500 signatures.

(2) For the office of California State Senate and the United States House of Representatives, 3,000 signatures.

(3) For candidates running for statewide office, 10,000 signatures.

(4) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the

filing fee, or 10 percent of the total of registered voters in the district in which he seeks nomination, whichever is less.

(5) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he seeks nomination is less than 2,000, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 20 percent of the total of registered voters in the district in which he seeks nomination, whichever is less.

(6) Notwithstanding any other provision of this section, a candidate seeking the nomination of a qualified party with whom he is registered, the registered voters of which who were eligible to vote at the last statewide election constituted less than 5 percent of all registered voters eligible to vote at the last statewide election, may submit a petition containing signatures of 10 percent of the registered voters of that party in the district in which he seeks nomination, or 150 signatures, whichever is less.

(7) A voter may sign both a candidate's nomination papers and his or her in-lieu-filing-fee petition. However, if signatures appearing on such documents are counted towards both the nomination paper and the in-lieu-filing-fee petition signature requirements, a person may only sign one of the documents.

(b) Each clerk shall furnish to each candidate, upon request, and without charge therefor, forms for securing signatures. The number of forms which a clerk shall furnish a candidate shall be a quantity which provides the candidates with spaces for signatures sufficient in number to equal the number of signatures which the candidate is required to secure pursuant to subdivision (a) if the candidate desires that number of forms. However, the clerk may, rather than provide the candidate with the number of forms set forth in the preceding sentence, or, upon the request of a candidate, provide the candidate with a master form, which may be duplicated by the candidate at the candidate's expense for the purpose of circulating additional petitions. The Secretary of State shall prescribe the format of the master form. All forms shall be made available commencing 45 days before the first day for circulating nomination papers. However, in cases of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than 45 days after the creation of the vacancy, the forms shall be made available within five working days after the creation of the vacancy. No other form except the form furnished by the county clerk or forms duplicated from a master form shall be used to secure signatures. Each petition section shall bear an affidavit signed by the circulator, in substantially the same form as set forth in Section 6494. The substitution of signatures for fees shall be subject to the following provisions:

(1) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he is eligible to vote.

(2) If a voter signs more candidates' petitions than there are

offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

(3) In-lieu-filing-fee petitions shall be filed at least 15 days prior to the close of the nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, or a sufficient combination of such signatures and pro rata filing fee, the clerk shall issue nomination papers provisionally. Within 10 days after receipt of a petition, the clerk shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee, to cover the deficiency.

(4) If the petition is circulated for an office in more than one county, the candidate shall submit the signatures to the county clerk in the county in which the petition was circulated. The county clerk shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the Secretary of State shall notify the candidate and the county clerks of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers. Each circulator of an in-lieu-filing-fee petition shall have the qualifications required under Section 42.

(5) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The clerk shall not be required to determine the validity of a greater number of signatures than that required by this section.

(c) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 607 prior to the first day on which petitions are available.

(d) All valid signatures obtained pursuant to this section shall be counted towards the number of voters required to sign a nomination paper in accordance with Section 6494.1 or 6834.1.

CHAPTER 713

An act to add Section 26209 to the Government Code, relating to local government.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 26209 is added to the Government Code, to read:

26209. The Board of Supervisors of the County of Humboldt may

establish a uniform procedure for the payment of rewards, payable from county funds, for ideas or suggestions made by county employees or members of the public which the board determines, in its discretion, would reasonably result in financial savings to the county.

SEC. 2. The Legislature finds and declares that this act is declaratory of existing law and does not constitute a change in existing law.

SEC. 3. The Legislature hereby finds and declares that the County of Humboldt has a special need to clarify its existing authority to establish an employee awards program. It is, therefore, declared that due to the unique circumstances concerning the County of Humboldt a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 714

An act to amend Sections 11265, 11265.1, and 15151.5 of the Welfare and Institutions Code, relating to county social services.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 11265.1 of the Welfare and Institutions Code, as added by Chapter 327 of the Statutes of 1982, is amended to read:

11265.1. In addition to the requirement for the annual redetermination of eligibility, the department shall establish regulations consistent with federal law to implement a recipient monthly reporting system for use in determining monthly eligibility and the amount of the grant. The department shall define what constitutes a complete report and shall specify the deadlines for submitting a complete report, as well as the consequences of, and good cause for, failure to submit a complete report. The department shall adopt fair and equitable regulations implementing the monthly reporting requirement.

SEC. 2. Section 11265.1. of the Welfare and Institutions Code, as added by Chapter 327 of the Statutes of 1982, is amended to read:

11265.1. In addition to the requirement for the annual redetermination of eligibility, the department shall establish

regulations consistent with federal law to implement a recipient monthly reporting system for use in determining monthly eligibility and the amount of the grant. The department shall define what constitutes a complete report and shall specify the deadlines for submitting a complete report, as well as the consequences of, and good cause for, failure to submit a complete report. The department shall adopt fair and equitable regulations implementing the monthly reporting requirement.

Each adult member of the family shall provide, under penalty of perjury, the information necessary to complete the report.

SEC. 3. Section 15151.5 of the Welfare and Institutions Code, is amended to read:

15151.5. Notwithstanding the provisions of subdivision (2) of Section 15150 and Section 15151, the counties shall receive at least 66 percent of the amounts payable to the state with respect to the services subject to the limitations of Title XX of the Social Security Act, provided:

(a) That the total federal allocation of funds for social services under the public assistance programs shall be fully distributed and utilized in each fiscal year;

(b) That in the event that federal funds so allocated have not been utilized, the department shall reallocate the unused funds in such a manner that they may be fully utilized for the purposes for which they are received.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1325 are both chaptered and amend Section 11265.1 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 1325, that the amendments to Section 11265.1 proposed by both bills be given effect and incorporated in Section 11265.1 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill 1325 are both chaptered, both amend Section 11265.1, and Senate Bill 1325 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

CHAPTER 715

An act to amend Sections 11053 and 11102 of the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 11053 of the Welfare and Institutions Code is amended to read:

11053. It shall be the responsibility of a recipient changing

residence from one county to another within the state to promptly notify the county paying aid to the recipient of the move and to apply for a redetermination of eligibility within the new county of residence. The first county shall notify the second county of the recipient's move as soon as the recipient's location in the second county is known. The county to which the recipient has moved will be responsible for determining the recipient's continued eligibility for payment of aid and, to the extent possible, as determined by the Director of Health Services, eligibility for the Medi-Cal program, as of the first day of the month following 30 days after the first county has notified the second county of the recipient's relocation. The first county shall provide the second county with copies of those documents, as specified by the department, necessary to establish current eligibility and grant amount.

SEC. 2. Section 11102 of the Welfare and Institutions Code is amended to read:

11102. County residence is not a qualification for aid under any public assistance program.

County responsibility for making aid payments is determined as follows:

(a) The county where the applicant lives shall accept the application and shall be responsible for paying the aid.

(b) Responsibility for payment of aid to any person qualifying for and receiving aid from any county, who moves to another county in this state to make his home, shall be transferred to the second county as soon as administratively possible, but not later than the first day of the month following 30 days after notification to the second county.

For purposes of public assistance the county in which an applicant or recipient lives is:

(1) For a patient in a state hospital or institution, voluntary, nonprofit, or proprietary facility or other public or private institution, the county from which he was admitted.

(2) For a person who has had to leave the county in which he normally lives, solely for the purpose of securing care not otherwise available to him in a medical facility, the county in which he last maintained a living arrangement outside a medical facility.

(3) For a person who on or after July 1, 1969, has been released or discharged from a state hospital, for a period not to exceed three years from the date of such release, the county from which he was admitted to the hospital.

(4) For a person who prior to July 1, 1969, has been released on leave of absence from a state hospital, the county from which he was admitted.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not

result in additional net costs.

CHAPTER 716

An act to amend Sections 14204, 14208, 14300, 14750, 14800, 14867, and 16125 of, and to add Sections 14004, 14005, 14209, and 14752 to, the Financial Code, relating to credit unions.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 14004 is added to the Financial Code, to read:

14004. "Impaired capital" means that the losses or projected losses of a credit union are such that the book value of a member's share is reduced below 100 percent of the monetary amount of that share when initially purchased plus any accumulated dividends.

SEC. 2. Section 14005 is added to the Financial Code, to read:

14005. Unless otherwise defined in this division, "insolvent" means a credit union has ceased to pay its debts in the ordinary course of business, or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.

SEC. 3. Section 14204 of the Financial Code is amended to read:

14204. If the commissioner upon any examination, or from any report made to the commissioner, finds any credit union is violating the provisions of this division or the rules made pursuant to this division, or has impaired capital, or is insolvent, or is conducting its business in an unsafe or unauthorized manner, the commissioner may notify the credit union to, and the credit union shall, cease these practices. The commissioner may notify the credit union to, and the credit union shall, temporarily suspend or entirely cease the transaction of any new business or the portion thereof as is ordered by the commissioner. Within 10 days from the date of a notification or order pursuant to this section, the credit union may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Neither the request for a hearing nor the hearing itself shall stay the notification or order issued by the commissioner under this section.

SEC. 4. Section 14208 of the Financial Code is amended to read:

14208. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment or management of, any credit union, any officer, director, or employee of, or person performing similar functions for, a credit union, if the commissioner finds that:

(1) The censure, suspension or bar is in the public interest, that the person has committed a violation of this division or rule of the commissioner, and that the violation was either willful or caused, or will probably cause, material damage to the credit union or any member thereof.

(2) Any officer, director, employee of, or person performing similar functions for a credit union has been convicted of, or pleaded nolo contendere to, a crime, or has been held liable in a civil action by final judgment if the crime or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property.

SEC. 5. Section 14209 is added to the Financial Code, to read:

14209. The commissioner may commence and prosecute actions and proceedings to enjoin violations of this division or violations of orders or decisions of the commissioner rendered pursuant to this division, and for the enforcement of any and all civil penalties provided for by this division.

SEC. 6. Section 14300 of the Financial Code is amended to read:

14300. If the commissioner finds, after a hearing, unless waived in writing by the licensee, that a credit union has impaired capital, or is insolvent, or is operating in an unsafe or unsound manner, or has failed to comply with Section 14858, the commissioner may take possession of the business and assets of the credit union and maintain possession until such time as the commissioner shall permit it to continue business, or its affairs are put in order, or it is finally liquidated.

If the credit union submits a satisfactory plan to restore any impairment of capital, or cure its insolvency, and to proceed with business in a sound, businesslike manner, the commissioner may permit the credit union to resume possession of the business and assets and operate as a credit union under such conditions as may be imposed by the commissioner in the public interest.

SEC. 7. Section 14750 of the Financial Code is amended to read:

14750. Any officer, director, member of a committee of a credit union, or loan officer appointed pursuant to Section 14602, or employee who knowingly permits a loan to be made or participates in a loan to a nonmember of the credit union, or knowingly permits a loan to be made or participates in a loan which is not made in conformity with the requirements of this division, is guilty of a misdemeanor.

SEC. 8. Section 14752 is added to the Financial Code, to read:

14752. Except as provided for in Sections 14051 and 14750, any person who willfully violates any provision of this division, or who willfully violates any rule or order issued pursuant to this division, shall upon conviction be fined not more than ten thousand dollars ($10,000) or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order.

Conviction under this section shall not bar the exercise of the administrative authority of the commissioner provided in Section 14208.

SEC. 9. Section 14800 of the Financial Code is amended to read:

14800. (a) Every credit union may admit to membership those persons qualified for membership, as provided in the credit union bylaws, upon payment of an entrance fee or the purchase of a share in the credit union.

(b) No officer, director, committee member, or employee of any credit union shall approve a person for admission to membership or admit an applicant for membership in the credit union or extend any benefit or service of the credit union to any person, either directly or indirectly, unless that person is admitted to membership in the credit union pursuant to subdivision (a).

SEC. 10. Section 14867 of the Financial Code is amended to read:

14867. (a) Shares, including special shares, and certificates for funds may be withdrawn for payment to the owner or for any third party, in the manner and in accordance with written procedures which shall be established by the board of directors.

(b) The board of directors may waive any requirement of notice of intent to withdraw, except where requirement of the notice is imposed by applicable law.

SEC. 11. Section 16125 of the Financial Code is amended to read:

16125. (a) The operation of the corporation shall at all times be subject to the regulation of the commissioner and his or her duly designated representatives may at any time investigate the affairs and examine the books, accounts, records, and files of the corporation. The commissioner and his or her duly designated representatives shall have free access to the offices, books, accounts, papers, records, files, safes, and vaults of the corporation.

(b) If an examination or investigation is made, the corporation shall pay to the commissioner the cost thereof, including the salary or other compensation paid to the persons making the examination or rendering special services and overhead cost incurred in connection with the examination or investigation, as fixed by the commissioner. In determining the cost of services or examinations, the commissioner may use the estimated average hourly cost for all persons performing services for, or examinations of, the corporation for the fiscal year. If recovery of these costs cannot be made from the corporation, these costs shall become the immediate, direct proportionate obligation of each member credit union and shall be payable to the commissioner within 30 days of the written demand of the commissioner.

(c) The corporation shall file with the commissioner an audit report containing audited financial statements prepared in accordance with generally accepted accounting principles and in accordance with the requirements of Section 14252, and an annual report prepared in accordance with the requirements of Section 14254. Upon request by the commissioner, the corporation shall also

file unaudited financial statements prepared in accordance with generally accepted accounting principles and in accordance with the requirements of Section 14253, and a special report prepared in accordance with the requirements of Section 14255.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 717

An act to amend Sections 2626, 2626.1, and 2627 of, and to add Section 2626.2 to, the Unemployment Insurance Code, relating to unemployment disability insurance, and making an appropriation therefor.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 2626 of the Unemployment Insurance Code is amended to read:

2626. An individual shall be deemed disabled on any day in which, because of his or her physical or mental condition, he or she is unable to perform his or her regular or customary work.

"Disability" or "disabled" includes:

(a) Illness or injury, whether physical or mental, including any illness or injury resulting from pregnancy, childbirth, or related medical condition.

(b) Inability to work because of a written order from a state or local health officer to an individual infected with, or suspected of being infected with, a communicable disease.

(c) Acute alcoholism being medically treated or, to the extent specified in Section 2626.1, resident status in an alcoholic recovery home.

(d) Acute drug-induced illness being medically treated or, to the extent specified in Section 2626.2, resident status in a drug-free residential facility.

SEC. 2. Section 2626.1 of the Unemployment Insurance Code is amended to read:

2626.1. (a) An individual who is a resident in an alcoholic recovery home pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in

excess of 30 days in any disability benefit period while receiving resident services, if an authorized representative of the alcoholic recovery home certifies that the individual is a resident participating in an alcoholic recovery program which has satisfied a program review by the State Department of Alcohol and Drug Programs. The individual shall be eligible for disability benefits for an additional period not in excess of 30 days if the referring physician certifies to the need of the individual for continuing resident services.

(b) The department shall reimburse the State Department of Alcohol and Drug Programs from the Disability Fund, in a reasonable amount as determined by the department, for the expense of reviewing any alcoholic recovery program, as required by the department in the administration of subdivision (a) which is not funded under an approved county alcohol plan as provided for in Article 4 (commencing with Section 11810) of Chapter 4 of Part 2 of Division 10.5 of the Health and Safety Code.

SEC. 3. Section 2626.2 is added to the Unemployment Insurance Code, to read:

2626.2. (a) An individual who is a resident in a drug-free residential facility pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in excess of 45 days in any disability benefit period while receiving resident services, if an authorized representative of the drug-free residential facility certifies that the individual is a resident participating in a drug-free residential facility which has satisfied a program review by the State Department of Alcohol and Drug Programs. The individual shall be eligible for disability benefits for an additional period not in excess of 30 days if the referring physician certifies to the need of the individual for continuing resident services.

(b) The department shall reimburse the State Department of Alcohol and Drug Programs from the Disability Fund, in a reasonable amount as determined by the department, for the expense of reviewing any drug-free residential facility, as required by the department in the administration of subdivision (a), which is not funded under the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or in conformance with Chapter 4 (commencing with Section 11980) of Part 3 of Division 10.5 of the Health and Safety Code.

SEC. 4. Section 2627 of the Unemployment Insurance Code is amended to read:

2627. A disabled individual is eligible to receive disability benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unemployed due to a disability only if the director finds that:

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) Except as provided in Sections 2627.3, 2627.5, and 2627.7, he or she has been unemployed and disabled for a waiting period of seven

consecutive days during each disability benefit period with respect to which waiting period no disability benefits are payable.

(c) Except as provided in Sections 2626.1, 2626.2, and 2709, he or she has submitted to such reasonable examinations as the director may require for the purpose of determining his or her disability.

(d) Except as provided in Section 2708.1, he or she has filed a certificate as required by Section 2708 or 2709.

SEC. 5. The amendment of Sections 2626, 2626.1 and 2627 of, and the addition of Section 2626.2 to, the Unemployment Insurance Code made by this act shall become operative with respect to periods of disability commencing on or after January 1, 1983. The provisions of law in effect prior to the amendment or addition of such provisions made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1983.

CHAPTER 718

An act relating to environmental protection, and making an appropriation therefor.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Notwithstanding subdivision (d) of Section 21191 of the Public Resources Code, the sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the California Environmental License Plate Fund to the City of Walnut Creek in support of the Heather Farm Garden Center project.

CHAPTER 719

An act to add Article 2.5 (commencing with Section 18615) to Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code, relating to health.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Article 2.5 (commencing with Section 18615) is added to Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code, to read:

Article 2.5. Formaldehyde Vapors

18615. The Legislature finds and declares that:

(a) Energy-saving features in new conventional and manufactured housing and commercial and other buildings have substantially reduced the air exchanges in those structures.

(b) Contaminants in indoor air present a potential health hazard to occupants of such structures.

(c) Off-gassing of formaldehyde vapors has been shown to occur in housing utilizing building materials of plywood and particle board.

(d) Occupants of mobilehomes have reported instances of symptoms consistent with those produced by exposure to formaldehyde vapors.

18615.5. It is the intent and purpose of the Legislature that the State Department of Health Services shall conduct a toxic research and information program, that a part of this program be devoted to the development of standard methods for measuring indoor air quality, the determination of the source of contaminants, and the making of recommendations for laws or regulations, where appropriate. It is the intent of the Legislature that three hundred sixty-seven thousand seventy-six dollars ($367,076) of the funds appropriated by Schedule (b) of Item 4260-001-001 of the Budget Act of 1982, or so much thereof as may be necessary, be used to fund the indoor air pollution component of the toxic research and information program which shall include a study of formaldehyde emissions in mobilehomes.

18616. The State Department of Health Services shall make a recommendation to the department and the Legislature regarding the appropriate level of formaldehyde vapors in new mobilehomes, on or before June 15, 1983.

CHAPTER 720

An act to amend Section 6250 of the Penal Code, relating to community correctional centers.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982]

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

SECTION 1. Section 6250 of the Penal Code is amended to read:

6250. The Director of Corrections may establish and operate facilities to be known as community correctional centers. No later than 60 days prior to award of a contract for the establishment of such a center, the director shall notify the county board of supervisors or city council in whose jurisdiction the center will be located of the pending contract. The notice may be delivered by hand or sent by

any form of mail requiring a return receipt. Failure to provide the notice shall be grounds for extinguishing the contract upon motion of the board of supervisors or city council.

CHAPTER 721

An act to add Section 5004.1 to the Vehicle Code, relating to vehicle license plates.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 5004.1 is added to the Vehicle Code, to read:

5004.1. (a) An owner of any motor vehicle eligible for registration pursuant to Section 5004 may, after the requirements for the registration of the motor vehicle have been complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model year date when the vehicle was manufactured, if the model year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code. The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate to be used corresponds to the model year date when the vehicle was manufactured.

Vehicles subject to this section shall display evidence of current registration.

(b) A fee of thirty-five dollars ($35) shall be charged for the application for use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10).

(d) Whenever any person who has been authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars ($12) shall be charged in addition to all other appropriate fees.

(e) Commencing July 1, 1983, applications may be submitted to the department for the use of model year date license plates.

(f) The department shall not approve any application under this section until 2,000 applications have been received.

(g) If the department does not receive at least 2,000 applications on or before December 31, 1984, this section is repealed on January 1, 1985, except that the department shall submit a report pursuant to subdivision (h). In that event, no application fees received pursuant to this section are refundable.

(h) The department shall submit a report to the Legislature not

later than January 1, 1985, on the implementation of this section, including whether sufficient applications have been received.

CHAPTER 722

An act to amend Sections 12975.1, 12975.7, and 12995 of, to add Sections 12975.1, 12975.7, 12975.8, 12978, and 12995 to, and to repeal Sections 12975.1, 12975.7, 12975.8, 12978, and 12995 of, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 12975.1 of the Insurance Code is amended to read:

12975.1. All examination expense moneys collected by the Department of Insurance under the provisions of Sections 736, 1061, and 1857.4 are hereby appropriated to the department and shall be deposited in the Insurance Fund to the credit of the support appropriation for the department current at the time of the deposit.

SEC. 2. Section 12975.1 is added to the Insurance Code, to read:

12975.1. All examination expense moneys collected by the Department of Insurance under the provisions of Sections 736, 1061, and 1857.4 are hereby appropriated to the department and shall be deposited in the General Fund to the credit of the support appropriation for the department current at the time of the deposit.

SEC. 3. Section 12975.7 of the Insurance Code is amended to read:

12975.7. All moneys received by the commissioner in payment of lawful fees or reimbursements pursuant to this code shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. All moneys received by the commissioner in fines and penalties pursuant to this code shall be transmitted to the State Treasury for deposit in the General Fund. The money in the Insurance Fund received from the commissioner pursuant to this section is hereby appropriated as follows:

(a) To pay the refunds authorized by this code.

(b) The balance of the money in the fund shall be used for the support of the Department of Insurance as authorized by the Budget Act and for related cash flow needs.

SEC. 4. Section 12975.7 is added to the Insurance Code, to read:

12975.7. Except as provided in Sections 12975.1 and 12995, all moneys received by the commissioner pursuant to this code shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. The money in the Insurance Fund received from the commissioner pursuant to this

section is hereby appropriated as follows:

(a) To pay the refunds authorized by this code.

(b) The balance of the money in the fund shall, on order of the Controller, be transferred to the State General Fund.

SEC. 5. Section 12975.8 is added to the Insurance Code, to read:

12975.8. (a) The Insurance Fund shall, in addition to the funds specified in Section 12975.7, consist of all of the following:

(1) All moneys appropriated to the fund in accordance with law.

(2) All moneys deposited into the State Treasury from any source whatever in payment of lawful fees or reimbursements collected by the Department of Insurance.

(3) The balance remaining in the Insurance Fund at the end of any fiscal year, whether the moneys received are from an appropriation, fees, or from reimbursements for services rendered.

(b) All moneys in the Insurance Fund shall be subject to an annual appropriation each fiscal year for the support of the Department of Insurance.

(c) Any balance remaining in the Insurance Fund at the end of any fiscal year may be carried forward to the next succeeding fiscal year to the extent necessary to cover expenditures and cash flow needs as authorized by the Budget Act. Any moneys in excess of the authorized budget shall revert to the General Fund.

(d) Whenever the balance in the Insurance Fund is not sufficient to cover cash flow in the payment of authorized expenditures, the department may borrow such funds as may be necessary from whatever source and under terms and conditions as may be determined by the Director of Finance. Repayment shall be made from revenues received by the department for the same fiscal year for which the loan is made.

SEC. 6. Section 12978 is added to the Insurance Code, to read:

12978. Notwithstanding any other provision of law, the commissioner may increase or decrease the fees set forth in this code as necessary to allow the department to meet the appropriation authorized by the annual Budget Act. However, any increase or decrease so made shall be made only in accordance with this section.

Any increase or decrease in the statutory fees made by the department pursuant to this section shall be by a uniform percentage for all fees, and shall be announced by bulletin not later than January 31 of any year, to be effective on July 1 of that calendar year. The bulletin shall be sent to all affected parties and to both houses of the Legislature. Any such fee increase or decrease may be rescinded by a majority vote of both houses of the Legislature not later than April 30 after the issuance of the bulletin announcing the increase or decrease.

The limit on the amount which the fees may be increased or decreased in any year shall be the increase or decrease in the Gross National Product Implicit Price Deflator for the immediately preceding calendar year, as established by the United States Department of Commerce, Bureau of Economic Analysis. In the

event this indicator is discontinued by the federal government, the department shall request the United States Department of Commerce to supply a formula for the conversion of the Gross National Product Implicit Price Deflator to a similar indicator or index then available, and the formula shall thereafter be the basis for the computation. In addition to the other limits imposed by this section, the commissioner shall not, before July 1, 1986, increase any statutory fee by an amount greater than 30 percent of that in effect on June 30, 1983.

SEC. 7. Section 12995 of the Insurance Code is amended to read:

12995. The costs of administration and operation of the Bureau of Fraudulent Claims shall be borne by all of the insurers admitted to transact insurance in this state. The commissioner shall divide such costs among all such companies, assessing each such company an identical amount adequate to provide the funds for each fiscal year of operation of the bureau; provided, however, the assessment for each company shall not exceed five hundred dollars ($500) in each fiscal year. All moneys received by the commissioner from insurers pursuant to this section shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. All moneys which are deposited in the fund after receipt by the commissioner from insurers pursuant to this section are hereby appropriated to the department and are to be exclusively used for the support of the Bureau of Fraudulent Claims. To the extent the assessments against insurers made pursuant to this section are not sufficient to fund the entire operations of the bureau, other money appropriated to the department, if available, may be used, in the commissioner's discretion, to fund those operations not covered by the assessments. The total budget of the bureau shall be as determined annually in the Budget Act.

SEC. 8. Section 12995 is added to the Insurance Code, to read:

12995. All costs of administration and operation of the Bureau of Fraudulent Claims shall be borne by all of the insurers admitted to transact insurance in this state. The commissioner shall divide such costs among all such companies, assessing each such company an identical amount adequate to provide the total cost of each fiscal year of operation of the bureau; provided, however, the assessment for each company shall not exceed five hundred dollars ($500) in each fiscal year. All moneys received by the commissioner pursuant to this section shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Commissioner's Regulatory Trust Fund, which shall be created for this purpose. All moneys in such fund received from the commissioner pursuant to this section are hereby appropriated to the department and are to be exclusively used for the support of the Bureau of Fraudulent Claims. The total budget of the bureau shall be as determined annually in the Budget Act.

SEC. 9. All moneys collected by the Insurance Commissioner pursuant to Section 12995 of the Insurance Code, but which are not

expended in the 1982–83 budget year, shall be deposited in the Insurance Fund on July 1, 1983.

SEC. 10. Sections 12975.1 and 12975.7 of the Insurance Code, as amended by Sections 1 and 3 of this act, and Sections 12975.8 and 12978 of the Insurance Code, as added by Sections 5 and 6 of this act, shall remain in effect until July 1, 1986, and as of that date are repealed. Sections 12975.1 and 12975.7 of the Insurance Code, as added by Sections 2 and 4 of this act, shall become operative on July 1, 1986.

SEC. 11. Section 12995 of the Insurance Code, as amended by Section 7 of this act shall remain in effect until July 1, 1986, or the date on which Article 5 (commencing with Section 12990) of Chapter 2 of Division 3 of the Insurance Code is repealed, whichever date is earlier and on such date is repealed.

Section 12995 of the Insurance Code, as added by Section 8 of this act, shall become operative only if, on July 1, 1986, Article 5 (commencing with Section 12990) of Chapter 2 of Division 3 of the Insurance Code, has not been repealed, in which case it shall become operative on July 1, 1986.

SEC. 12. This act shall become operative on July 1, 1983.

CHAPTER 723

An act to amend Section 827 of, and to add and repeal Section 1202.1 of, the Elections Code, relating to elections.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 827 of the Elections Code is amended to read:

827. From moneys appropriated by the Legislature, the Controller shall allocate and disburse to the counties the amounts necessary to reimburse them for the net costs incurred by them in complying with the voter registration provisions, including the provisions authorizing voter registration by mail and voter outreach programs, as set forth in Chapter 704 of the Statutes of 1975, as these provisions have been amended. The Secretary of State, in consultation with the Controller, shall develop a formula for the reimbursement of these costs. The Controller shall prescribe the forms for filing claims pursuant to this section. These claims shall be submitted to the Controller by October 31 in the year following the fiscal year in which the costs were incurred.

SEC. 2. Section 1202.1 is added to the Elections Code, to read:

1202.1. (a) Notwithstanding any other provision of the law, a special absentee voter who qualifies pursuant to this section may

apply not earlier than 60 days before the election for a special absentee voter ballot.

(b) If a special absentee voter submits an application containing a statement that provides that due to military or other contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as a special absentee voter, the clerk shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 1200. The clerk shall send with the ballot a list of all candidates who have filed nomination papers and a list of all measures which are to be submitted to the voters and to which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 17101 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The clerk shall receive and canvass special absentee voter ballots described in this section under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with the provisions of this section, except that prior to election day, special absentee voter ballots shall be secured separately in a sealed ballot box reserved for that purpose.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and the military or other contingency does not exist during the normal absentee voting period, that voter may make an application for an absentee ballot pursuant to Sections 1200 and 1201. If an application is made pursuant to this subdivision, the clerk shall reject the voted ballot previously cast and process the application in accordance with Chapter 1 (commencing with Section 1000).

(f) This section shall be operative until January 1, 1989, and as of that date is repealed.

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

CHAPTER 724

An act relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. (a) The Legislature hereby finds that the Butte Community College District assumed by written agreement the responsibility for conducting the adult education classes required to be offered by the Chico Unified School District pursuant to Section 41976 of the Education Code. The written agreement was effective March 31, 1981, and in accordance with the agreement the Butte Community College District conducted the adult education classes formerly offered by the Chico Unified School District for the remainder of the 1980–81 fiscal year.

(b) The Legislature further finds that, because of the midyear transfer of the responsibility for conducting the adult education classes, in the 1981–82 fiscal year, the Butte Community College District will report a substantial increase in the units of average daily attendance generated by the adult education classes. It is the intent of the Legislature that this increase in the units of average daily attendance for those adult education classes not be deemed an expansion of a program and, therefore, shall not subject the Butte Community College District to any limitation imposed on growth in average daily attendance pursuant to subdivision (g) of Section 84605 of the Education Code.

SEC. 2. (a) In addition to any other adjustment in the base revenues of the Butte Community College District in the 1981–82 fiscal year determined pursuant to Section 84606 of the Education Code, the base revenues of the Butte Community College District in the 1981–82 fiscal year shall be further adjusted according to the following procedure:

(1) In consultation with the Superintendent of Public Instruction, the Chancellor of the California Community Colleges shall determine the total units of average daily attendance reported by both the Butte Community College District and the Chico Unified School District in the 1980–81 fiscal year for the adult education classes which were required to be offered by the Chico Unified School District pursuant to Section 41976 of the Education Code and which were transferred during that fiscal year to the Butte Community College District pursuant to a written agreement effective March 31, 1981.

(2) The chancellor shall subtract from the amount determined in paragraph (1) the number of units of average daily attendance

reported by the Butte Community College District in the 1980–81 fiscal year for the adult education classes transferred during that fiscal year from the Chico Unified School District.

(3) The chancellor shall multiply the result determined in paragraph (2) by seven hundred thirteen dollars and eighty-five cents ($713.85).

(b) In no event shall the amount computed pursuant to paragraph (2) of subdivision (a) be included in the computation prescribed by subdivision (g) of Section 84605 of the Education Code for the 1981–82 fiscal year.

(c) For the 1982–83 fiscal year and each fiscal year thereafter, the number of units of average daily attendance determined in paragraph (2) of subdivision (a) and the revenue derived in paragraph 3 of subdivision (a) shall be included in the computation of the base revenues of the Butte Community College District in those fiscal years.

SEC. 3. In no event shall any of the units of average daily attendance which were transferred from the Chico Unified School District to the Butte Community College District pursuant to this act be credited to the Chico Unified School District for any purpose in the 1981–82 fiscal year and each fiscal year thereafter.

SEC. 4. There is hereby reappropriated from category (a) of Item 610-101-001 of the Budget Act of 1981 to the Board of Governors of the California Community Colleges, in augmentation of category (e) of Item 687-101-001 of the Budget Act of 1981, an amount to be determined by the Chancellor of the California Community Colleges, in consultation with the Superintendent of Public Instruction, by multiplying the number of units of average daily attendance determined pursuant to paragraph (2) of subdivision (a) of Section 2 of this act times the adult revenue limit per unit of average daily attendance of the Chico Unified School District in the 1981–82 fiscal year.

In no event shall the amount apportioned to the Butte Community College District in the 1981–82 fiscal year pursuant to Section 2 of this act exceed the amount reappropriated from category (a) of Item 610-101-001 of the Budget Act of 1981 to the Board of Governors of California Community Colleges pursuant to this section.

SEC. 5. Notwithstanding any other provision of law, the Controller shall not make the transfer required by Proviso 10 of the provisions applicable to Item 6870-101-001 of the Budget Act of 1982 (Ch. 326, Stats. 1982). On the effective date of this act, the Controller shall transfer from Item 6100-156-001 of the Budget Act of 1982 to category (a) of Item 6870-101-001 of the Budget Act of 1982, an amount equal to the amount calculated pursuant to Section 4 of this act for apportionment in the 1982–83 fiscal year.

SEC. 6. Due to the unique circumstances concerning the transfer of adult education classes from the Chico Unified School District to the Butte Community College District in the 1980–81 fiscal year, the Legislature finds and declares that a general statute cannot be made

applicable within the meaning of Section 16 of Article IV of the Constitution.

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

In order to provide sufficient funding for the Butte Community College District at the earliest possible time, and to facilitate the orderly operation of its program, it is necessary that this act take effect immediately.

CHAPTER 725

An act relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. A grant not to exceed the amount of one hundred forty-four thousand dollars ($144,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Coast Joint Union High School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 2. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Ralph Lane County Service Area for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 3. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the Coast Joint Union High School District and the Ralph Lane County Service Area to immediately undertake certain improvements necessary to enable the residents of those communities to have a dependable and potable water supply.

SEC. 4. The Legislature further finds and declares that the water systems of the Coast Joint Union High School District and the Ralph Lane County Service Area have critical deficiencies which pose a serious threat to the public health and welfare of consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 5. The Legislature finds and declares as follows:

(a) There are not enough funds remaining for purposes of the California Safe Drinking Water Grant Program to provide grants to all eligible applicant public agencies.

(b) As of June 15, 1982, of the thirty million dollars ($30,000,000) available for grants under the California Safe Drinking Water Grant Program, the sum of twenty-one million one hundred thousand dollars ($21,100,000) has been designated for specific public agencies by the Department of Water Resources.

(c) It is essential that the remaining funds available for purposes of the California Safe Drinking Water Grant Program be granted to the eligible public agencies with critical public health problems in their domestic water supplies and severe financial needs as determined by the Department of Water Resources and the State Department of Health Services.

SEC. 6. Subject to the provisions of Chapters 10.5 (commencing with Section 13850) and 10.6 (commencing with Section 13880) of Division 7 of the Water Code, and notwithstanding any other provisions of law, the funds available for purposes of the California Safe Drinking Water Grant Program not subject to a letter of commitment by the Department of Water Resources as of June 15, 1982, shall be provided to those agencies selected by the Department of Water Resources and the State Department of Health Services from among those for which the Legislature has specifically approved grants. Selection criteria for funding shall include relative severity of public health problems, financial need, and timely completion of program requirements.

SEC. 7. In no event shall the outstanding grant commitment under the California Safe Drinking Water Grant Program total more than thirty million dollars ($30,000,000).

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize grants from the California Safe Drinking Water Fund to the Coast Joint Union High School District and the Ralph Lane County Service Area to resolve the critical water supply problem of the community at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 726

An act to amend Section 5681 of the Business and Professions Code, relating to fees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 5681 of the Business and Professions Code is amended to read:

5681. The amount of fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for examination shall be fixed by the board in an amount not to exceed two hundred twenty-five dollars ($225).

(b) The fee for an original certificate is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate is issued less than one year before the date on which it will expire, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The fee for a temporary certificate shall be fixed by the board in an amount not to exceed fifty dollars ($50).

(d) The fee for a duplicate certificate shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

(e) The renewal fee shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed two hundred dollars ($200).

(f) The penalty for failure to notify the board of a change of address within 30 days from an actual change in address shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

(g) The delinquency fee shall not exceed twenty-five dollars ($25).

(h) The fee for a branch office shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the increase in fees provided in this act may be applied to the next renewal period, it is necessary that this act go into immediate effect.

CHAPTER 727

An act to amend Section 91005 of, and to add Section 91005.5 to, the Government Code, relating to the Political Reform Act.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 91005 of the Government Code is amended to read:

91005. (a) Any person who makes or receives a contribution, gift or expenditure in violation of Section 84300, 84304, 86202, 86203 or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to five hundred dollars ($500) or three times the amount of the unlawful contribution, gift or expenditure, whichever is greater.

(b) Any designated employee or public official specified in Section 87200, other than an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a Conflict of Interest Code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

SEC. 2. Section 91005.5 is added to the Government Code, to read:

91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to two thousand dollars ($2,000).

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 728

An act to amend Sections 19825 and 19826 of, and to add Section 19826.5 to, the Health and Safety Code, relating to building standards.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 19825 of the Health and Safety Code is amended to read:

19825. Every city or county, which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure, shall, in addition to any other requirements, print the following declarations in substantially the following form upon the front side, left column of any building permit issued:

BUILDING PROJECT IDENTIFICATION

Applicant's Mailing Address _____

_____

Address of Building _____

_____

Owner's Name if known _____

Telephone No. _____

Contractor's Name _____

Contractor's Mailing Address _____

_____

Lic. No. _____

Architect or Engineer _____

Architect's or Engineer's Address _____

Lic. No. _____

In addition the city or county may require that there be included in the building project identification portion of a building permit, the following:

Assessor's Parcel Number* _____

Permit date _____

Permit number _____

Description of work _____

Building permit valuation _____

*To be entered by issuing agency.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class _____ Lic. No. _____

Date _____ Contractor _____

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractors License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars ($500).):

☐ I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.).

☐ I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractors License Law.).

☐ I am exempt under Sec. _____, B.&P.C. for this reason _____

Date _____ Owner _____

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab.C.).

Policy No. _____ Company _____

☐ Certified copy is hereby furnished.

☐ Certified copy is filed with the county building inspection department or county _____ department.

Date _____ Applicant _____

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the permit is for one hundred dollars ($100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Date _____ Applicant _____

NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ.C.).

Lender's Name _____

Lender's Address _____

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes.

_____ _____

Signature of Applicant or Agent Date

SEC. 2. Section 19826 of the Health and Safety Code is amended to read:

19826. No city or county, whether general law or chartered, shall issue a building permit which does not contain all applicable declarations required by Section 19825 properly executed by the owner, applicant, contractor, or agent of the owner, contractor, or applicant. The properly executed declarations shall be a condition for issuance of the building permit. However, no city or county or its employees shall be responsible for determining the truth or accuracy of the declarations, and no monetary liability on the part of, and no cause of action for damages against them, shall arise from their failure to verify the truth or accuracy of the declarations.

A city or county may require that within 15 days of issuance, the

issuing agency of the city or county deliver copies of all building permits to the assessor of the county.

SEC. 3. Section 19826.5 is added to the Health and Safety Code, to read:

19826.5. A city or county may require that the agency of such city or county issuing a building permit inform the assessor of the county of issuance of the final inspection of a property for which a permit has been issued within 15 calendar days of conducting a final inspection.

CHAPTER 729

An act to amend Section 19996.21 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 19996.21 of the Government Code is amended to read:

19996.21. (a) It is the policy of the state that to the extent feasible, reduced worktime be made available to employees who are unable, or who do not desire, to work standard working hours on a full-time basis. Further, it is the intent of the Legislature that nothing in this act shall be used to reduce the number of full-time equivalency positions authorized to any department.

(b) If the department determines that a reduction in the personnel of departments or agencies of state government equivalent to 1 percent or more of full-time equivalent jobs is contemplated in a single fiscal year, the director may conduct or may direct each affected department or agency to conduct a survey of either all permanent full-time employees or those permanent full-time employees most likely to be affected by the personnel reduction. The purpose of the survey shall be to determine the extent of the desire of employees to participate in voluntary reduced worktime.

The survey shall contain information clearly informing employees of potential worktime options, the effect reduced worktime would have on benefits, and the right to return to full-time work as specified in Section 19996.24.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In recognition of the fact that the unemployment level in

California is high and in order to minimize the impact that a reduction in the number of persons employed by the state would have on the state's economy, this act must take effect immediately.

CHAPTER 730

An act to amend Sections 1797, 1797.1, 1797.2 and 1797.3 of the Civil Code, and to amend Section 18054 of, and to amend, repeal, and add Section 18054.7 of, the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 1797 of the Civil Code is amended to read:

1797. All new mobilehomes and manufactured homes sold to a buyer shall be covered by the warranty set forth in this chapter.

SEC. 2. Section 1797.1 of the Civil Code is amended to read:

1797.1. As used in this chapter, "mobilehome" is defined pursuant to Section 18008 of the Health and Safety Code and "manufactured home" is defined pursuant to Section 18007 of the Health and Safety Code. Both shall include, in addition to the structure thereof, the plumbing, heating, and electrical systems and all appliances and other equipment installed or included therein by the manufacturer or dealer.

SEC. 3. Section 1797.2 of the Civil Code is amended to read:

1797.2. The warranty provided for in this chapter shall apply to the manufacturer of the mobilehome or the manufactured home as well as to the dealer who sells the mobilehome or the manufactured home to the buyer.

SEC. 4. Section 1797.3 of the Civil Code is amended to read:

1797.3. The mobilehome/manufactured home warranty from the manufacturer or dealer to the buyer shall be set forth in a separate written document entitled "Mobilehome/Manufactured Home Warranty," shall be delivered to the buyer by the dealer at the time the contract of sale is signed, and shall contain, but is not limited to, the following terms:

(a) That the mobilehome or manufactured home is free from any substantial defects in materials or workmanship.

(b) That the manufacturer or dealer or both shall take appropriate corrective action at the site of the mobilehome or manufactured home in instances of substantial defects in materials or workmanship which become evident within one year from the date of delivery of the mobilehome or manufactured home to the buyer, provided the buyer or his or her transferee gives written notice of such defects to the manufacturer or dealer at their business address

not later than one year and 10 days after date of delivery.

(c) That the manufacturer and dealer shall be jointly and severally liable to the buyer for the fulfillment of the terms of warranty, and that the buyer may notify either one or both of the need for appropriate corrective action in instances of substantial defects in materials or workmanship.

(d) That the address and the phone number of where to mail or deliver written notices of defects shall be set forth in the document.

(e) That the one-year warranty period applies to the structures, plumbing, heating, electrical systems and all appliances and other equipment installed and included therein by the manufacturer or dealer.

(f) That while the manufacturers of any or all appliances may also issue their own warranties, the primary responsibility for appropriate corrective action under the warranty rests with the dealer and manufacturer, and the buyer should report all complaints to the dealer and manufacturer initially.

SEC. 5. Section 18054 of the Health and Safety Code is amended to read:

18054. (a) The department, upon granting a license, shall issue to the applicant a license with a size and format established by the department containing at least the applicant's name and address, the general distinguishing number assigned to the applicant and expiration date. For salespersons, the license shall also state the name and address of the employing dealer.

(b) Upon presentation of authority from the Public Utilities Commission showing valid status as a transporter, a transporter may apply for, and the department, subject to the requirements of Section 18063.8, shall issue, transportation decals or other visual displays which shall have a general distinguishing number assigned to the applicant. Fees for the decal or visual display shall be established by the department and shall be paid by the applicant at the time the application is made.

(c) The department shall also furnish books and forms as it may determine necessary. All books, forms, and licenses and decals shall remain the property of the department and may be taken up at any time for inspection.

(d) A licensee shall promptly obtain a duplicate license when the original is either lost or mutilated.

(e) Whenever the department cancels, suspends, or revokes a license or decal, the licensee or person in possession shall immediately return the license, documents, plates, certificates, and other evidence of licensure to the department.

SEC. 6. Section 18054.7 of the Health and Safety Code is amended to read:

18054.7. (a) Every occupational license and decal issued to a manufacturer, distributor, dealer, or transporter expires at midnight, December 31, of each year. The application for renewal and fees shall be mailed or delivered to the department between November 1 and

November 30 of each year. Applications postmarked or delivered in person to the department during the month of December shall be subject to a penalty of 50 percent of the license fee. A license may not be renewed after its expiration date.

(b) Licenses or decals, including temporary permits, issued to a manufacturer, distributor, dealer, or transporter which expire on December 31, 1983, when renewed, shall be issued for a term of not less than three months or greater than 26 months, as designated by the department, in order to establish staggered renewal periods. Renewal fees shall be prorated consistent with the term of the license.

(c) This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1984, deletes or extends such date.

SEC. 5. Section 18054.7 is added to the Health and Safety Code, to read:

18054.7. (a) Every occupational license or decal issued to a manufacturer, distributor, dealer or transporter, shall expire on the last day of the 24th month following the date of issuance of the temporary permit, pursuant to Section 18052.

(b) Every occupational license or decal renewed by a manufacturer, distributor, dealer or transporter shall be for a term of 24 months.

(c) Applications to renew an occupational license or decal held by a manufacturer, distributor, dealer or transporter must be either received by the department or postmarked during the month preceding the month of expiration. Applications postmarked or delivered in person to the department during the month of expiration shall be subject to a 50 percent penalty. A license may not be renewed after its expiration date.

(d) This section shall become operative January 1, 1984.

CHAPTER 731

An act to amend, repeal, and add Section 35401 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 35401 of the Vehicle Code is amended to read:

35401. (a) Except as provided in subdivision (b), no combination of vehicles coupled together, including any attachments thereto, shall exceed a total length of 65 feet.

(b) The following combinations of vehicles coupled together, including any attachments thereto, shall not exceed a total length of 60 feet:

(1) A truck tractor and semitrailer.

(2) A truck tractor, auxiliary dolly, and semitrailer.

(3) A motortruck and semitrailer, if the pivot point of the semitrailer connection is less than two feet to the rear of the center of the rearmost axle of the motortruck, or the distance from the pivot point to the center of the rearmost axle of the semitrailer exceeds 34 feet.

(c) Notwithstanding subdivision (b), a combination of vehicles coupled together which consists of a truck tractor and semitrailer, each of which was first registered in this state between January 1, 1977, and December 31, 1978, and the semitrailer of which is designed with a split bed capable of tilting to provide a loading ramp for tractors and other mobile equipment, shall not exceed a total length of 65 feet, provided that the truck tractor wheelbase does not exceed 23 feet, and the dimension from the kingpin to the center of the rearmost semitrailer axle does not exceed 34 feet.

(d) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under its respective jurisdiction. The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(e) The Legislature, in enacting this section, does not intend to reduce, and this section shall not be construed to reduce, any maximum total length of any combination of vehicles permitted under the statutes as they existed on January 1, 1974.

(f) This section shall remain in effect only until December 31, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1985, deletes or extends that date.

SEC. 2. Section 35401 is added to the Vehicle Code, to read:

35401. (a) Except as provided in subdivision (b), no combination of vehicles coupled together, including any attachments thereto, shall exceed a total length of 65 feet.

(b) The following combinations of vehicles coupled together, including any attachments thereto, shall not exceed a total length of 60 feet:

(1) A truck tractor and semitrailer.

(2) A truck tractor, auxiliary dolly and semitrailer.

(3) A motortruck and semitrailer, if the pivot point of the semitrailer connection is less than two feet to the rear of the center of the rearmost axle of the motortruck, or the distance from the pivot point to the center of the rearmost axle of the semitrailer exceeds 34 feet.

(c) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under

their respective jurisdiction. Such an ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authorities determine will best serve to give notice of the ordinance.

The Legislature in enacting this section does not intend to reduce, and this section shall not be construed to reduce, any maximum total length of any combination of vehicles permitted under the statutes as they existed on January 1, 1974.

(d) This section shall become operative January 1, 1986.

CHAPTER 732

An act to amend Sections 14031.7 and 14036 of, and to repeal Section 14538 of, the Government Code, and to repeal and add Section 730.7 of, and to add Section 730.8 to, the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 14031.7 of the Government Code is amended to read:

14031.7. Prior to any allocation pursuant to subdivision (b) of Section 14031.6, for any recommended new service, the department shall submit a report to the commission consisting of the following:

(a) The speeds and other service attributes needed.

(b) Needed facilities and manpower specifications.

(c) The avoidable costs of direct services joint-use arrangements, capital facilities, and other necessary arrangements.

(d) An estimate of total costs for proposed services.

(e) An inventory and evaluation of other existing transportation services in the corridor.

(f) The market potential encompassing modal diversion and operating revenues.

(g) For any commuter service, the compatibility of the service with the affected regional transportation plan.

During the preparation of this report, the department shall draw upon the resources of the Public Utilities Commission and any other available resource. This report shall become a part of the department's proposed state transportation improvement program.

SEC. 2. Section 14036 of the Government Code is amended to read:

14036. The department shall prepare a rail passenger development plan annually for submission to the Legislature, the Governor, the Public Utilities Commission, and the California

Transportation Commission. The plan shall be submitted to the commission by January 1, 1983, and each January 1 thereafter for its advice and consent and to the Legislature, the Governor, and the Public Utilities Commission by the following March 1. The plan shall consist of all of the following:

(a) For capital and operating subsidies, all actual encumbrances for the prior year; and for state operations, all actual expenditures for the prior year. All revenues shall be identified by source. Variances in expenditures from the prior year's plan for capital and operating subsidies shall be identified for each route.

(b) For capital and operating subsidies, estimated encumbrances and revenues for the current year; and for state operations, estimated expenditures for the current year. The department shall use the same format as is required for prior year expenditures pursuant to subdivision (a).

(c) For the budget year and the four following fiscal years, proposed encumbrances for capital and operating subsidies shall be reported in the same format as is required for prior year's expenditures. For state operations, proposed expenditures for the budget year shall be reported.

(d) The identification and cost of capital facilities necessary to enhance competitiveness of rail passenger services.

(e) A performance evaluation of all services in operation, including performance trends, potential for efficiency and effectiveness, possible improvements, and strategies to achieve that potential.

(f) A recommendation of a level of and program for services over a five-year period.

(g) An evaluation of reports by regional planning agencies and county transportation commissions on commuter service alternatives in their regions, including presentation of their recommendations.

(h) A map showing all existing intercity and commuter passenger rail routes and services, all proposed intercity and commuter passenger rail routes and services, and all intercity and commuter passenger rail routes and services that are the subject of feasibility studies.

This report shall be prepared in consultation with the Public Utilities Commission and the National Rail Passenger Corporation. The department may consult with other agencies, organizations, and persons with expertise. The department shall employ realistic assumptions, using Public Utilities Commission cost data whenever possible, with respect to the level of services it can provide and the cost of these services when developing the plan.

SEC. 3. Section 14538 of the Government Code is repealed.

SEC. 4. Section 730.7 of the Public Utilities Code is repealed.

SEC. 5. Section 730.7 is added to the Public Utilities Code, to read:

730.7. In determining reimbursement to railroad corporations for

the operation of rail passenger service, the commission shall not exceed that compensation which would be payable if calculated pursuant to the standards of the Rail Services Planning Office of the Interstate Commerce Commission contained in Title 49 of the Code of Federal Regulations, Part 1127.

SEC. 6. Section 730.8 is added to the Public Utilities Code, to read:

730.8. Whenever a state agency files with the commission an application for an increase in rates or fares or for any change in the level of service for passenger transportation by a railroad corporation and the state agency has prior to the application held a public hearing on the matter which the commission finds to be complete and adequate, the commission may determine not to hold any further hearing on the matter and in this event shall approve, modify and approve as so modified, or disapprove the application within 90 days of the date of filing with the commission.

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

In order for the Department of Transportation and the Public Utilities Commission to determine their staffing needs and other requirements relative to their duties and responsibilities concerning rail passenger services for the 1982–83 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 733

An act to add Section 29504 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 29504 is added to the Food and Agricultural Code, to read:

29504. The director may promulgate regulations to permit the preparation, packing, shipment, or sale of honey in an experimental type of container which does not conform to the standards prescribed in this article. These regulations shall include container labeling standards which comply with the requirements of this chapter.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a

local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 734

An act to amend Sections 2218, 2231, 2231.5, 2238, 2241, 2246, 2251, 2252, 2253.2, 2253.8, and 2256 of, to amend and renumber Sections 2256.4 and 2256.5 of, and to add Sections 2218.5 and 2256.4 to, the Revenue and Taxation Code, relating to state-mandated local programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1 Section 2218 of the Revenue and Taxation Code is amended to read:

2218. For the purposes of this chapter, "claim" shall include three types of claims which local agencies and school districts may file with the state:

(a) "Test claim" or "claim of first impression" means the first claim filed with the State Board of Control alleging that a particular statute or executive order imposes a mandated cost on such local agency or school district.

(b) "Estimated claim" means a claim filed with the Controller, during the fiscal year in which the mandated costs are to be incurred by the local agency or school district, against an appropriation made to the Controller for the purpose of paying such estimated claims.

(c) "Reimbursement claim" is a claim for costs incurred by a local agency or school district filed with the Controller against an appropriation made for the purpose of paying such claims in the prior fiscal year.

SEC. 2. Section 2218.5 is added to the Revenue and Taxation Code, to read:

2218.5. Reimbursement for state mandated costs may be claimed as follows:

(a) A local agency or school district may file an estimated claim by November 30 of the fiscal year in which costs are to be incurred, and, by November 30 following that fiscal year shall file a reimbursement claim which details the costs actually incurred for that fiscal year; or

(b) A local agency or school district shall, by November 30 following the fiscal year in which costs are incurred, file a reimbursement claim which details the costs actually incurred for

that fiscal year.

SEC. 3. Section 2231 of the Revenue and Taxation Code is amended to read:

2231. (a) The state shall reimburse each local agency for all "costs mandated by the state", as defined in Section 2207. The state shall reimburse each school district only for those "costs mandated by the state" as defined in Section 2207.5.

(b) For the initial fiscal year during which such costs are incurred reimbursement funds shall be provided as follows: (1) any statute mandating such costs shall provide an appropriation therefor, and (2) any executive order mandating such costs shall be accompanied by a bill appropriating the funds therefor, or, alternatively, an appropriation for such funds shall be included in the Budget Bill for the next following fiscal year, and such executive order shall cite the appropriate Budget Bill item or other bill as the source from which the Controller may pay the claims of local agencies and school districts.

In subsequent fiscal years appropriations for such costs shall be included in the State Budget and in the Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (b), (c), or (d) of Section 2253 shall be included in the State Budget and in the Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 2255 which includes the amounts awarded relating to such chaptered bills or executive orders.

(c) The amount appropriated for such purposes shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of such mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of such mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For the initial fiscal year during which such costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 45 days of the operative date of the mandate, or, if the board is requested to do so pursuant to Section 2253.4, within 45 days after the board reviews the claiming instructions for reimbursement issued by the Controller, whichever is later, a claim for payment of its estimated costs required by such mandate for the current fiscal year. If the local agency or school district does not submit such claim within the 45-day period, it may submit its claim for reimbursement as specified in Section 2218.5. The Controller shall pay such claims from the funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim which he determines

is excessive or unreasonable. The amendments to this paragraph during 1978 shall apply to all claims submitted on or after January 1, 1978.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 2218.5. The Controller shall pay such claims from funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which he determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in the previous fiscal year.

(3) In the case of unfunded mandates when funds are appropriated to the Controller to pay for these costs, claims for initial year costs, and subsequent years for which costs have been incurred prior to the enactment of the claims bill, shall be filed within 120 days from the date of notification by the Controller of the enactment of the claims bill. These claims shall be based upon parameters and guidelines issued by the board and as approved by the Legislature. The Controller shall promptly notify the relevant local agencies or school districts subsequent to enactment of the claims bill of the right to file these claims.

(4) Prior to payment of claims, the Controller shall only require information from local agencies or school districts that is actually necessary to perform such audits.

SEC. 4. Section 2231.5 of the Revenue and Taxation Code is amended to read:

2231.5. (a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of the cumulative effects of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to establish a method for regularly reviewing the costs of state-mandated local programs, by requiring the sunset of new mandates and evaluating the benefit of previously enacted mandates.

(b) No provision of law enacted by the Legislature after January 1, 1981, which created "costs mandated by the state" for which reimbursement is made shall be effective for more than six years after the operative date of the law, and each bill containing those provisions of law shall also include language repealing those provisions no more than six years after the operative date of those provisions. The Legislature, prior to the end of the six-year period, may enact a bill continuing the provisions of law and reimbursement. The law may be continued for successive periods, but in no case shall it be continued for more than one six-year period at a time. This subdivision shall not apply to "costs mandated by the state" for which reimbursement is made if the reimbursement is to fund benefits for the State Teachers Retirement System or the Public Employees Retirement System.

(c) Prior to the end of each calendar year, commencing with 1981, the Department of Finance shall review all statutes which created "costs mandated by the state" for which reimbursement was made enacted in the fifth preceding year, except that the department's initial review shall also include all those statutes enacted in 1973, 1974, and 1975. The department shall report to the Legislature on the effectiveness of each statute which created costs mandated by the state and the amount of reimbursements made for each statute to local agencies and school districts for each fiscal year. This report may be incorporated in the department's annual Chaptered Bill Report on Local Mandates, required by Section 2246. The department may recommend that the Legislature continue or modify any provision of law reviewed pursuant to this subdivision.

(d) The Legislative Analyst may review and report to the Legislature with regard to any statute or executive order which creates a state-mandated local program. The Legislative Analyst may recommend that the Legislature continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision.

SEC. 5. Section 2238 of the Revenue and Taxation Code is amended to read:

2238. (a) If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline specified in Section 2218.5, the Controller shall pay the reimbursement claim in an amount equal to 80 percent of the amount which would have been allowed had the reimbursement claim been timely filed. In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 2218.5. Estimated claims which were filed by the deadline specified in that section shall be paid in full before payments are made on estimated claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay the estimated claims approved by the Controller, the Controller shall prorate those claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the State Board of Control or the Legislature in the same manner as described in Section 2236 in order to assure appropriation of funds sufficient to pay those claims.

(b) Notwithstanding the provisions of subdivision (a), any otherwise valid claim filed with the Controller's office on or before October 31, 1979, for costs incurred in the 1977–78 and prior fiscal years, shall be considered under this section and shall be paid at 80 percent or the lesser prorated amount after payment of the timely filed claims.

SEC. 6. Section 2241 of the Revenue and Taxation Code is amended to read:

2241. When a bill is introduced in the Legislature, and each time a bill is amended, the Legislative Counsel shall determine whether the bill requires state reimbursement to local agencies or school districts pursuant to Section 2229, 2230, or 2231. He shall make this

determination known in the digest of the bill and shall describe in the digest the basis for this determination. For purposes of this section, whenever a bill requires a state agency to issue an executive order which would impose a cost mandated by the state pursuant to subdivision (b) or (c) of Section 2207 or subdivision (b) or (c) of Section 2207.5, the bill shall be deemed to require state reimbursement pursuant to Section 2231 and the Legislative Counsel shall make this determination known in the digest of the bill.

In making any determination required by this section the Legislative Counsel shall disregard any provision in a bill which would make inoperative the reimbursement requirements of Section 2229, 2230, or 2231, and shall make his determination irrespective of any provision to that effect.

SEC. 7. Section 2246 of the Revenue and Taxation Code is amended to read:

2246. Before the end of each calendar year the Department of Finance shall review all statutes enacted during such calendar year which (1) contain provisions making inoperative Section 2229, 2230, 2231, or 2234 or (2) which create costs mandated by the state and do not contain a "sunset" provision as required by subdivision (b) of Section 2231.5 or (3) have resulted in costs or revenue losses mandated by the state which were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the provisions of the statutes. The Department of Finance shall also review all statutes enacted in the calendar year which may result in cost savings authorized by the state. The Department of Finance shall submit to the Legislature an annual report of the review required by this section, together with the recommendations as it may deem appropriate.

SEC. 8. Section 2251 of the Revenue and Taxation Code is amended to read:

2251. For the purpose of hearing and deciding upon such claims the membership of the Board of Control shall consist of those members provided by Part 4 (commencing with Section 13900) of Division 3 of Title 2 of the Government Code and two additional members, who shall be local government elected officials. Such additional members shall be appointed by the Governor and shall serve for a term of two years. Terms of members appointed pursuant to this section shall begin on January 1. A member appointed pursuant to this section shall continue to serve until his successor has been appointed and qualified.

The Governor shall also appoint an alternate member for the local government members who shall vote as a member of the board only in the event that either or both of the regular local government members are absent from a board meeting for any cause. The alternate shall be eligible for reimbursement of expenses while attending board meetings.

The alternate shall be appointed for a period of two years beginning on January 1, 1983, or the operative date of the act

amending this section during the second year of the 1981–82 Regular Session of the Legislature, whichever occurs first.

SEC. 9. Section 2252 of the Revenue and Taxation Code is amended to read:

2252. The Board of Control shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on such claims. Such procedures shall fall within the scope of subdivision (b) of Section 13920 of the Government Code, except that such procedures shall be adopted by a majority vote of the board membership prescribed by Section 2251. The hearing procedure shall provide for presentation of evidence by the claimant and by the Department of Finance and any other affected department or agency. A vote of a majority of the board members shall be required to sustain a claim submitted pursuant to this article. Hearing of a claim may be postponed at the request of the claimant, without prejudice. A claim pursuant to this article or Article 3.6 (commencing with Section 2256) which fails to obtain the approval of a majority of board members, but which is not rejected by a majority of the board members, may be resubmitted at a later date by the claimant.

SEC. 10. Section 2253.2 of the Revenue and Taxation Code is amended to read:

2253.2. (a) The Board of Control shall, within ten days after receipt of the first claim based upon each chaptered bill or executive order as described in subdivisions (b) and (d) of Section 2253, set a date for a public hearing on such claim within a reasonable time. The claim may be based upon estimated costs that a local agency or school district may incur as a result of the mandate and may be filed at any time after a bill is chaptered or executive order adopted. Such claims shall be submitted in a form prescribed by the board. After a hearing in which the claimant and any other interested organization or individual may participate, the board, if it determines a cost was mandated, shall adopt parameters and guidelines for reimbursement of any claims relating to such bill or executive order. A local agency, school district, and the state may file a claim or request with the board to amend, modify, or supplement such parameters or guidelines. The board may, after due public notice and hearing, amend, modify, or supplement such parameters and guidelines.

The board shall include in its report to the Legislature required under Section 2255 the number of mandates found pursuant to this section and shall include an estimate of the statewide costs to be incurred by local agencies or school districts affected by the mandate. Such statewide estimate shall be approved by the board after receiving and reviewing recommendations from the Department of Finance and any other interested parties. The local government claims bill, specified in Section 2255, at the time of its introduction shall provide for an appropriation sufficient to pay future claims based upon estimated statewide costs resulting from all mandates found by the board.

(b) The Board of Control shall not find a reimbursable mandate, pursuant to either Section 2250 of this code or to Section 905.2 of the Government Code, in any claim submitted by a local agency or school district, pursuant to subdivision (a) of Section 2218, if, after a hearing, the board finds that:

(1) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the chaptered bill or executive order, and that chaptered bill or executive order imposes costs upon that local agency or school district requesting such legislative authority. For purposes of this paragraph, a resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph, except that a request to implement an existing reimbursable mandate in an alternative manner shall not constitute a request; or

(2) The chaptered bill or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts; or

(3) The chaptered bill or executive order implemented a federal law or regulation and resulted in "costs mandated by the federal government", as defined in Section 2206, unless such chaptered bill or executive order mandates costs which exceed the mandate in such law or regulation; or

(4) The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or level of service.

(5) The chaptered bill or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to such local agencies or school districts.

(c) The Board of Control shall not consider, pursuant to either Section 2250 of this code or to Section 905.2 of the Government Code, any claims submitted by a local agency or school district if:

(1) The chaptered bill or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election; or

(2) The chaptered bill created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the chaptered bill relating directly to the enforcement of the crime or infraction; or

(3) The claim is for two hundred dollars ($200) or less.

(d) The Legislature declares that the purpose of this section is to encourage local agencies and school districts to file claims for reimbursement with much more advance knowledge of the extent of possible reimbursement and to provide for a more expeditious and efficient claims process.

SEC. 11. Section 2253.8 of the Revenue and Taxation Code is

amended to read:

2253.8. The parameters and guidelines prepared by the Board of Control shall specify the fiscal years for which claims may be filed.

The period prescribed in the parameters and guidelines shall not provide for reimbursement of costs incurred in fiscal years preceding the eligibility date established by the date of submission of the first or "test" claim on a specified statute or executive order. The test claim shall be submitted on or before November 30 following a fiscal year in order to establish eligibility for that fiscal year.

SEC. 12. Section 2256 of the Revenue and Taxation Code is amended to read:

2256. The State Board of Control shall hear and decide upon a claim by any state agency, that a local agency or school district has realized a cost savings authorized by the state as defined in Section 2219 or 2219.5.

Notwithstanding any other provision of law, this article shall provide the sole and exclusive procedure by which the State Board of Control shall hear and decide upon a claim that a local agency or school district has realized a cost savings authorized by the state.

For the purpose of hearing and deciding upon such claims, the membership of the State Board of Control shall consist of those members specified in Section 2251.

No claim shall be made to the State Board of Control pursuant to this article unless the cost savings identified by such claim exceeds two thousand five hundred dollars ($2,500), on a statewide basis, per fiscal year.

Any state agency with the authority to audit the records of any local agency or school district may do so for the purpose of establishing that there were cost savings authorized by the state in excess of two thousand five hundred dollars ($2,500) for which a claim may be filed with the State Board of Control.

SEC. 13. Section 2256.4 is added to the Revenue and Taxation Code, to read:

2256.4. The State Board of Control may recommend an allocation formula based on actual savings.

SEC. 14. Section 2256.4 of the Revenue and Taxation Code is amended and renumbered to read:

2256.5. (a) Each local agency or school district which submits a claim pursuant to the provisions of Section 2231 shall submit a report on the amount of cost savings authorized by the state which it realized in the preceding fiscal year. Such report shall be submitted by the deadline for filing reimbursement claims specified in Section 2218.5.

(b) Subsequent to the enactment of a local government claims bill requiring the Controller to deduct cost savings realized by local agencies or school districts pursuant to a specific law or executive order, the Controller shall distribute the claiming instructions for reporting cost savings to all applicable local agencies and school districts.

(c) The Controller shall reduce the payments to each local agency or school district for "costs mandated by the state made pursuant to Section 2231" by 50 percent of the amount of "cost savings authorized by the state" realized by such local agency or school district in the preceding fiscal year. The first fiscal year for which the Controller shall reduce such payments shall be the fiscal year during which the local government claims bill requiring such deduction is enacted. The Controller shall not reduce any payment unless the cost savings authorized by the state and realized by a local agency or school district exceeds two hundred dollars ($200).

(d) No claim for mandated costs shall be paid by the Controller unless the local agency or school district which submitted the claim has also submitted all savings reports required by this section or a certification that such local agency or school district did not realize any savings which exceed two hundred dollars ($200).

SEC. 15. Section 2256.5 of the Revenue and Taxation Code is amended and renumbered to read:

2256.6. A school district, local agency, or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the State Board of Control on the grounds that the board's decision is not supported by substantial evidence. The court may order the board to hold another hearing regarding such claim and may direct the board on what basis the claim is to receive a rehearing.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the provisions of this act at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 735

An act to amend Sections 39148 and 81138 of, and to add Sections 39157 and 81147 to, the Education Code, relating to public education.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 39148 of the Education Code is amended to read:

39148. (a) Except as provided in subdivision (b), all plans, specifications, and estimates shall be prepared by a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title

structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer.

(b) For the purposes of this section, a mechanical or electrical engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code may be in responsible charge of preparation of plans, specifications, and estimates, and observation of the work of construction where the work is, as determined by the Department of General Services, of the kind normally performed by engineers certified in the particular branch of engineering for which the engineer is certified. Any architectural or structural work involved shall be the respective responsibility of a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

SEC. 2. Section 39157 is added to the Education Code, to read:

39157. (a) When a school building constructed in accordance with plans and specifications approved by the Department of General Services is completed, the notice of completion is filed, and all final verified reports and all testing and inspection documents, as required by this article or as required by the rules and regulations adopted pursuant to this article, are submitted to and on file with the Department of General Services, and all required fees paid by the school district, the department shall issue a certification that the school building complies with the requirements of this article. Nothing in this article shall prevent beneficial occupancy by a school district prior to the issuance of this certification.

(b) When a school building, constructed in accordance with approved plans and specifications, is completed but final verified reports, as are required under Section 39151, have not been submitted to the Department of General Services due to the incapacitating illness, death, or the default of any persons required to file such reports, the Department of General Services shall, upon written request of the school district, review all of the project records and make such examinations as it deems necessary to enable it to certify that the school building otherwise complies with the requirements of this article. The Department of General Services may request the school district to have made, reported, and verified any other tests and inspections which the department deems necessary to complete its examinations of the construction.

(c) The costs incurred by the Department of General Services in connection with this section shall be paid by the school district. The actual costs to perform the examinations, tests, and inspections shall be an appropriate cost of the project to be paid from the building funds of the district. Certification of the project by the Department

of General Services shall be withheld until all the costs have been paid by the school district.

(d) This section shall not relieve any individual of his or her responsibility to file verified reports, as required in Section 39151, or any other documents required by the rules and regulations adopted pursuant to this article. This section shall not abrogate the provisions of Section 39154.

SEC. 3. Section 81138 of the Education Code is amended to read:

81138. (a) Except as provided in subdivision (b), all plans, specifications, and estimates shall be prepared by a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer.

(b) For the purposes of this section, a mechanical or electrical engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code may be in responsible charge of preparation of plans, specifications, and estimates, and observation of the work of construction where the work is, as determined by the Department of General Services, of the kind normally performed by engineers certified in the particular branch of engineering for which the engineer is certified. Any architectural or structural work involved shall be the respective responsibility of a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

SEC. 4. Section 81147 is added to the Education Code, to read:

81147. (a) When a school building constructed in accordance with plans and specifications approved by the Department of General Services is completed, the notice of completion is filed, and all final verified reports and all testing and inspection documents, as required by this article or as required by the rules and regulations adopted pursuant to this article, are submitted to and on file with the Department of General Services, and all required fees paid by the community college district, the department shall issue a certification that the school building complies with the requirements of this article. Nothing in this article shall prevent beneficial occupancy by a community college district prior to the issuance of this certification.

(b) When a school building, constructed in accordance with approved plans and specifications, is completed but final verified reports, as are required under Section 81141, have not been submitted to the Department of General Services due to the incapacitating illness, death, or the default of any persons required

to file such reports, the Department of General Services shall, upon written request of the community college district, review all of the project records and make such examinations as it deems necessary to enable it to certify that the school building otherwise complies with the requirements of this article. The Department of General Services may request the community college district to have made, reported, and verified any other tests and inspections which the department deems necessary to complete its examinations of the construction.

(c) The costs incurred by the Department of General Services in connection with this section shall be paid by the community college district. The actual costs to perform the examinations, tests, and inspections shall be an appropriate cost of the project to be paid from the building funds of the district. Certification of the project by the Department of General Services shall be withheld until all the costs have been paid by the community college district.

(d) This section shall not relieve any individual of his or her responsibility to file verified reports, as required in Section 81141, or any other documents required by the rules and regulations adopted pursuant to this article. This section shall not abrogate the provisions of Section 81144.

CHAPTER 736

An act to amend Sections 11580.1 and 11580.2 of the Insurance Code, relating to automobile insurance.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 11580.1 of the Insurance Code is amended to read:

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under any such policy (1) to the extent that such insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if such policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for such motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any motor vehicle covered by such policy, and to the same extent that insurance is afforded to the named insured, to any other person using, or legally responsible for the use of, such motor vehicle, provided such use is by the named insured or with his permission, express or implied, and within the scope of such permission, except that: (i) with regard to insurance afforded for the loading or unloading of any such motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any such person; and (ii) the insurance afforded to any person other than the named insured need not apply to: (A) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his employment, or (B) any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith.

(c) In addition to any exclusion as provided in paragraph (3) of subdivision (b), the insurance afforded by any such policy of automobile liability insurance to which subdivision (a) applies, including the insurer's obligation to defend, may, by appropriate policy provision, be made inapplicable to any or all of the following:

(1) Liability assumed by the insured under contract.

(2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

(3) Liability imposed upon or assumed by the insured under any workers' compensation law.

(4) Liability for bodily injury to any employee of the insured arising out of and in the course of his employment.

(5) Liability for bodily injury to an insured or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle operated by an insured shall be considered to be property in the charge of an insured.

(7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.

(8) Any motor vehicle or class of motor vehicles, as described or

designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

The term "the insured" as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. The term "an insured" as used in paragraphs (5) and (6) shall mean any insured under the policy.

(d) Notwithstanding the provisions of paragraph (4) of subdivision (b), or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9, of the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, such agreement to be binding upon every insured to whom such policy applies and upon every third party claimant:

(1) That coverage and the insurer's obligation to defend under such policy shall not apply nor accrue to the benefit of any insured or any third party claimant while any motor vehicle is being used or operated by a natural person or persons designated by name. The insurer shall have an obligation to defend the named insured when all of the following apply to such designated natural person:

1. He or she is a resident of the same household as the named insured.

2. As a result of operating the insured motor vehicle of the named insured, he or she is jointly sued with the named insured.

3. He or she is an insured under a separate automobile liability insurance policy issued to him as a named insured, which policy does not provide a defense to the named insured.

Such agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of such policy by the named insured, or reinstatement of such policy within 30 days of any lapse thereof.

(2) That with regard to any such policy issued to a named insured engaged in the business of leasing vehicles for those vehicles which are leased for a term in excess of six months, or selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to such person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an "automobile liability policy" within the meaning of Section 16054 of the Vehicle Code, or as a "motor vehicle liability policy" within the meaning of Section 16450 of the Vehicle Code, nor shall any provision of this section apply to a policy which provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that any such policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision which expressly or impliedly excludes from coverage under such policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of such services at a rate not to exceed the following:

(1) For the 1980–81 fiscal year, the maximum rate authorized by the State Board of Control, which shall also be known as the "base rate."

(2) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the State Board of Control or (B) the base rate as adjusted by the California Consumer Price Index.

No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

For the purposes of this section, "social service transportation" means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(g) Notwithstanding the provisions of paragraph (4) of subdivision (b) of this section, or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or

Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under such policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. Such agreement shall be binding upon every insured to whom any such policy applies and upon any third party claimant.

(h) No policy of automobile insurance which provides insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

SEC. 2. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his heirs or his legal representative for all sums within such limits which he or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the

only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his spouse if a resident of the same household, but the term "insured motor vehicle" shall not

include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent

insurer through any settlement or judgment of such person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to him under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him, the damages which he shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his insurer, his legal representative, or his heirs and (ii) the uninsured motorist to

recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in such Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in such Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of such Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under such Article 3 with respect to the same accident, subject, however, to the right of such court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record

of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him, his executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction

in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date such written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

SEC. 3. It is the intent of the amendments made by this act which are contained in the first paragraph of subdivision (c) of Section 11580.1 of the Insurance Code to ensure that there is no duty to provide a defense where there is no reasonable possibility of an obligation to provide insurance coverage under subdivision (c). Further, it is the intent of the amendments made by this act which are contained in paragraph (5) of subdivision (c) of Section 11580.1 of the Insurance Code to ensure that there is no duty to indemnify an insured named in a cross-complaint where there would be no duty to indemnify if the insured were sued directly.

CHAPTER 737

An act to amend Sections 14591, 55601.6, and 62212 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 14591 of the Food and Agricultural Code is amended to read:

14591. (a) Every lot, parcel, or package of commercial fertilizer which is distributed into or within this state shall have attached to it, or be accompanied by, a label which states all of the following:

(1) Net weight or volume as required by law.

(2) Brand name and grade.

(3) Name and address of the licensed manufacturer.

(4) Guaranteed analysis statement which includes information regarding the ingredients of the fertilizer as specified by the director by regulation.

(b) When the name of a fertilizer material appears on the label of a mixed fertilizer, outside the required listing in the nutrient source list, the percentage of that ingredient present shall also appear on the label in print of the same size and color.

(c) When the name of a fertilizer material is used as a part of the name of a mixed fertilizer, as for example, blood, bone, or fish, the nitrogen or phosphoric acid shall be derived from or supplied entirely by the material named. When the name of a fertilizer material is used as a brand or as part of a brand and the nitrogen or phosphoric acid is not supplied by the material named, the word "brand" shall follow the name of the material.

(d) When the director finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he thereafter may require, by regulation, that the "guaranteed analysis" for phosphorous and potassium shall be in the following form:

Available Phosphorus (P)	percent.
Soluble Potassium (K)	percent.

The effective date of the regulation shall not be less than six months following its issuance, and, for a period of two years following the effective date of the regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. However, after the effective date of any regulation issued under the provisions of this paragraph which requires that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

(e) The director may require proof of labeling statements and claims made for any commercial fertilizer. As evidence of proof, the director may rely on experimental data, evaluations, or advice

furnished by scientists such as those of the University of California, and may accept or reject additional sources of proof. The director may disapprove a commercial fertilizer label if he determines adequate proof of label claims does not exist. The director, after hearing, may cancel the license or licenses of any licensee who distributes a commercial fertilizer under a disapproved label.

SEC. 2. Section 55601.6 of the Food and Agricultural Code is amended to read:

55601.6. To provide funds to carry out the provisions of Section 55601.5, each processor who crushes more than 100 tons of grapes in California shall pay to the director the amount determined by the director to be necessary to cover these costs, but not to exceed three cents ($0.03) per ton of grapes received for crushing, fresh weight equivalent, during each marketing season beginning July 1 and ending the following June 30, provided that one and one-half cents ($0.015) per ton of grapes received for crushing, or one-half of the fee if the fee is less than three cents ($0.03), shall be paid by the processor who crushes grapes and that one and one-half cents ($0.015) per ton of grapes received for crushing including any grapes produced by the processor, or one-half of the fee if the fee is less than three cents ($0.03), shall be paid by the processor who crushes grapes and may be deducted from moneys owed to the producer.

The amount of the fee shall be paid to the director on or before January 10 of each year on all grapes received for crushing through December 15. The amount of the fee on any grapes received for crushing after December 15 shall be paid to the director on or before June 30 of that marketing season.

The director may fix the fee at a lesser amount and may adjust the fee from marketing season to marketing season.

Any processor who crushes grapes who fails, neglects, or refuses to pay the required fee shall be in violation of this chapter as provided for in subdivision (i) of Section 55601.5. Any processor who crushes grapes shall not be entitled to pass any such penalty on to the producer of the grapes.

All moneys received under the provisions of this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 3. Section 62212 of the Food and Agricultural Code is amended to read:

62212. The director may fix the rates of assessments or fees required by Section 62211 at lesser amounts, and may adjust the rates of assessments or fees from time to time, whenever he or she finds that the cost of administering the provisions of this chapter, including any allocation of funds made pursuant to Section 38986, can be defrayed from revenues derived from the lower rates. However the rate of assessments deducted from payments to producers for market milk, including the handler's own production, and the rate of fees paid by handlers shall at all times be in the ratio of 2 to 1.

CHAPTER 738

An act to amend Section 22658 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982]

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

SECTION 1. Section 22658 of the Vehicle Code is amended to read:

22658. (a) The owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on such property to the nearest public garage, if there is displayed, in plain view at all entrances to the property, a sign prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency. The sign shall be of such size as specified by ordinance.

(b) The person causing removal of such vehicle shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner thereof, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of such removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. In the event the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as provided in this section, the person causing removal of a vehicle shall comply with the requirements of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) The provisions of this section shall not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon such property.

(d) The owner of a vehicle removed from private property pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) Any owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property, shall be liable for any storage or towing charges whenever there has

been a failure to post a sign as provided for in subdivision (a).

(f) No person shall cause the removal of any vehicle from a privately owned and operated fee-paid parking facility until at least 12 hours after the expiration of the period for which the fee is paid for the vehicle. This subdivision does not apply to any parking space or stall rented to a person and reserved or otherwise clearly marked or designated for the use of that person.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 739

An act to amend Section 1716 of, to add Sections 1504, 3707, and 7191 to, and to add Chapter 5 (commencing with Section 11675) to Part 4 of Division 2 of, the Financial Code, relating to financial institutions.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 1504 is added to the Financial Code, to read:

1504. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, any state bank or national bank whose principal place of business is in the State of California, which is authorized to transact a trust business, or any trust company authorized to engage in the trust business, when the bank or company is acting in its fiduciary capacity.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 2. Section 1716 of the Financial Code is amended to read:

1716. Any foreign (other nation) bank which, at the time it makes a loan or forbearance or executes a contract therefor, has assets equal to at least one hundred million dollars ($100,000,000), is licensed to maintain an office in California, is licensed or otherwise authorized by another state of the United States to maintain an agency or branch office in that state, or which maintains a federal agency or federal branch in any state of the United States and any

foreign (other state) bank is exempted from the restrictions of Section 1 of Article XV of the Constitution relating to rates of interest upon the loan or forbearance of any money, goods, or things in action or on accounts after demand.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 3. Section 3707 is added to the Financial Code, to read:

3707. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of or arranged by, a bank holding company or a subsidiary of a bank holding company which is not a bank. As used in this section, the terms "bank holding company" and "subsidiary" mean a bank holding company or subsidiary as defined in Chapter 17 (commencing with Section 1841) of Title 12 of the United States Code.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution. This section does not exempt a bank holding company or a subsidiary of a bank holding company from complying with all other applicable provisions of law regulating the business of these companies.

SEC. 4. Section 7191 is added to the Financial Code, to read:

7191. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, a state or federal savings and loan association which is authorized to exercise trust powers when the association is acting in its fiduciary capacity.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 5. Chapter 5 (commencing with Section 11675) is added to Part 4 of Division 2 of the Financial Code, to read:

CHAPTER 5. USURY EXEMPTION

11675. Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, an entity that is a savings and loan holding company, a subsidiary of a savings and loan holding company that is not a savings and loan association, or a service corporation which is a subsidiary of a savings and loan association or a federal savings and loan association. As used in this section, the terms "savings and loan holding company" and "subsidiary," mean a savings and loan holding company or a subsidiary, as defined in Section 408 of the National Housing Act (12 U.S.C. Sec. 1730a(a)(1)),

as amended, and the term "service corporation" means a service corporation described in Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. Sec. 1464), as amended, or Section 6702.1.

This section creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution. This section does not exempt a savings and loan holding company, a subsidiary of a savings and loan holding company, or a service corporation which is a subsidiary of a savings and loan association or a federal savings and loan assocation from complying with all other applicable provisions of law regulating the business of these companies.

CHAPTER 740

An act to amend Sections 8920, 8921, 8922, 8924, 8925, 8926, 8943, 8944, 8945, and 8950 of the Government Code, relating to the Legislature.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 8920 of the Government Code is amended to read:

8920. (a) No Member of the Legislature, state elective or appointive officer, or judge or justice shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state.

(b) No Member of the Legislature shall do any of the following:

(1) Accept other employment which he has reason to believe will either impair his independence of judgment as to his official duties or require him, or induce him, to disclose confidential information acquired by him in the course of and by reason of his official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him in the course of and by reason of his official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value, or portion thereof, in consideration of his appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.

This subdivision shall not be construed to prohibit a member who is an attorney at law from practicing in that capacity before any court or before the Workers' Compensation Appeals Board and receiving

compensation therefor. This subdivision shall not act to prohibit a member from acting as an advocate without compensation or making inquiry for information on behalf of a constituent before a state board or agency, or from engaging in activities on behalf of another which require purely ministerial acts by the board or agency and which in no way require the board or agency to exercise any discretion, or from engaging in activities involving a board or agency which are strictly on his or her own behalf. The prohibition contained in this subdivision shall not apply to a partnership or firm of which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from the transaction. The prohibition contained in this subdivision as it read immediately prior to January 1, 1983, shall not apply in connection with any matter pending before any state board or agency on or before January 2, 1967, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 2, 1967. The prohibition contained in this subdivision, as amended and operative on January 1, 1983, shall not apply to any activity of any Member in connection with a matter pending before any state board or agency on January 1, 1983, which was not prohibited by this section prior to that date, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 1, 1983.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, in committee, or elsewhere, in the passage or defeat of legislation in which he has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he is a member, of the legislation in which he has a personal interest, he first files a statement (which shall be entered verbatim on the journal) stating in substance that he has a personal interest in the legislation to be voted on and, notwithstanding that interest, he is able to cast a fair and objective vote on that legislation, he may cast his vote without violating any provision of this article.

(ii) If the member believes that, because of his personal interest, he should abstain from participating in the vote on the legislation, he shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his personal interest. In the event a rule of the house requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the

journal a simple statement that the member was excused from voting on the legislation pursuant to law.

The provisions of this section do not apply to persons who are members of the state civil service as defined in Article VII of the California Constitution.

SEC. 2. Section 8921 of the Government Code is amended to read:

8921. A person subject to this article has an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if he has reason to believe or expect that he will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. He does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if any benefit or detriment accrues to him as a member of a business, profession, occupation, or group to no greater extent than any other member of that business, profession, occupation, or group.

SEC. 3. Section 8922 of the Government Code is amended to read:

8922. A person subject to the provisions of this article shall not be deemed to be engaged in any activity which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state, or have a personal interest, arising from any situation, within the scope of this article, solely by reason of any of the following:

(a) His relationship to any potential beneficiary of any situation is one which is defined as a remote interest by Section 1091 or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5.

(b) Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Title 9 (commencing with Section 81000), so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

SEC. 4. Section 8924 of the Government Code is amended to read:

8924. (a) No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any provision of this article. The provisions of this article and Article 3 (commencing with Section 8940) which are applicable to a Member of the Legislature are also applicable to any employee of either house of the Legislature.

(b) Nothing in this part shall be construed to prohibit an employee of either house of the Legislature from serving in an elective or appointive office of any regional or local public agency.

SEC. 4.2. Section 8925 of the Government Code is amended to read:

8925. No person shall induce or seek to induce any Member of the Legislature to violate any provision of this article.

SEC. 4.4. Section 8926 of the Government Code is amended to read:

8926. Every person who knowingly and willfully violates any provision of this article is guilty of a misdemeanor. Every person who conspires to violate any provision of this article is guilty of a felony.

SEC. 5. Section 8943 of the Government Code is amended to read:

8943. (a) The committee shall have power, pursuant to the provisions of this article, to investigate and make findings and recommendations concerning alleged violations by Members of the Legislature of the provisions of Article 2 (commencing with Section 8920).

(b) The committee may, on its own action, initiate an investigation of a Member of the Legislature. The action may be taken only if the requirements of Section 8954 are satisfied.

SEC. 6. Section 8944 of the Government Code is amended to read:

8944. (a) Any person may file a statement alleging a violation of Article 2 (commencing with Section 8920) with the committee.

(b) To constitute a valid complaint, the statement shall satisfy all of the following requirements:

(1) It shall be in writing.

(2) It shall state the name of the Member of the Legislature alleged to have committed a violation.

(3) It shall set forth allegations which, if true, would constitute a violation of Article 2 (commencing with Section 8920). These allegations shall be stated with sufficient clarity and detail to enable the committee to make a determination pursuant to Section 8945.

(4) It shall be signed by the complainant under penalty of perjury.

(5) It shall include a statement that the facts are true of the complainant's own knowledge or that the complainant believes them to be true.

(c) As used in this article, the term "complaint" means a valid complaint as specified in subdivision (b).

(d) If a complaint is filed with the committee, the committee shall promptly send a copy of the complaint to the Member of the Legislature alleged to have committed the violation complained of, who shall thereafter be designated as the respondent, and the committee may send a copy of the complaint to the house in which the respondent serves, the Attorney General, the Fair Political Practices Commission, and the district attorney of the county in which the alleged violation occurred.

(e) No complaint may be filed with the committee after the expiration of 12 months from the date upon which the alleged violation occurred.

SEC. 7. Section 8945 of the Government Code is amended to read:

8945. (a) If the committee determines that the complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Article 2 (commencing with Section 8920), it shall dismiss the complaint and notify the complainant and respondent thereof. If the committee has sent a copy of the complaint to any other person or entity specified in subdivision (d) of Section 8944, the committee shall also notify that person or entity of its determination under this subdivision.

(b) If the committee determines that the complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Article 2 (commencing with Section 8920), the committee shall promptly investigate the alleged violation and, if after the preliminary investigation, the committee finds that probable cause exists for believing the allegations of the complaint, it shall fix a time for a hearing in the matter, which shall be not more than 30 days after the finding. If, after the preliminary investigation, the committee finds that probable cause does not exist for believing the allegations of the complaint, the committee shall dismiss the complaint. In either event the committee shall notify the complainant and respondent of its determination.

(c) If a result of an investigation initiated pursuant to subdivision (b) of Section 8943, determines that probable cause exists for believing that a Member of the Legislature has violated any of the provisions of Article 2 (commencing with Section 8920), the committee shall fix a time for a hearing in the matter, which shall be not more than 30 days after the determination.

(d) The committee shall make its determination under subdivision (a) or (b) not later than 90 days after first receiving a complaint which contains all of the information required by Section 8944. The committee may, however, seek an extension, not to exceed 90 days, which may be granted by a majority vote of the membership of each house. If the committee has requested a law enforcement agency to investigate the complaint or if the committee knows that the complaint is being investigated by a law enforcement agency, the time limits set forth in this subdivision shall be tolled until the investigation is completed.

(e) The committee's determination under subdivision (b) or (c) shall be stated in writing, with reasons given therefor, and shall be provided to the house in which the respondent serves, the Attorney General, the Fair Political Practices Commission, and the district attorney of the county in which the alleged violation occurred. The written determination provided pursuant to this subdivision is a public record and open to public inspection.

(f) Any deliberations of the committee from the time of receipt of a complaint until it decides to dismiss the complaint or to set a hearing shall not be open to the public unless the respondent requests a public meeting.

SEC. 8. Section 8950 of the Government Code is amended to read:

8950. (a) After the hearing the committee shall state its findings of fact. If the committee finds that the respondent has not violated any provisions of Article 2 (commencing with Section 8920), it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the house in which the respondent serves, the Attorney General, the Fair Political Practices Commission, and the district attorney of the appropriate county. The complaint and the fact of dismissal transmitted pursuant to this subdivision are public records and open to public inspection.

(b) If the committee finds that the respondent has violated any provisions of Article 2 (commencing with Section 8920), it shall state its findings of fact and submit a report thereon, which may include any recommendations as to actions which the committee believes would be appropriate to take against the respondent, to the house in which the respondent serves, send a copy of the findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General, the Fair Political Practices Commission, and the district attorney of the appropriate county. The report submitted pursuant to this subdivision is a public record and open to public inspection.

(c) The house in which the respondent serves shall have 90 days after the receipt of a copy of the findings and report described in subdivision (b) within which to take action with respect to the respondent and may take no action against a respondent after that time regarding the allegations in the complaint which resulted in the findings and report described in subdivision (b).

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 741

An act to amend Sections 21453, 21950 and 22100 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 21453 of the Vehicle Code is amended to read:

21453. (a) A driver facing a steady circular red signal alone shall stop at a marked limit line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain stopped until an indication to proceed is shown, except as provided in subdivision (b).

(b) Except when a sign is in place prohibiting a turn, a driver, after stopping as required by subdivision (a), facing a steady circular red signal, may turn right, or turn left from a one-way street onto a one-way street. A driver making such a turn shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to traffic lawfully using the intersection.

(c) A driver facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain stopped until an indication permitting movement is shown.

(d) Unless otherwise directed by a pedestrian control signal as provided in Section 21456, a pedestrian facing a steady circular red or red arrow signal shall not enter the roadway.

SEC. 2. Section 21950 of the Vehicle Code is amended to read:

21950. (a) The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

(b) The provisions of this section shall not relieve a pedestrian from the duty of using due care for his or her safety. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard. No pedestrian shall unnecessarily stop or delay traffic while in a marked or unmarked crosswalk.

(c) The provisions of subdivision (b) shall not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection.

SEC. 3. Section 22100 of the Vehicle Code is amended to read:

22100. Except as provided in Section 22100.5 or 22101, the driver of any vehicle intending to turn upon a highway shall do so as follows:

(a) Right Turns. Both the approach for a right-hand turn and a right-hand turn shall be made as close as practicable to the right-hand curb or edge of the roadway except:

(1) Upon a highway having three marked lanes for traffic moving in one direction which terminates at an intersecting highway accommodating traffic in both directions, the driver of a vehicle in

the middle lane may turn right into any lane lawfully available to traffic moving in that direction upon the roadway being entered.

(2) When a right-hand turn is made from a one-way highway at an intersection, a driver shall approach the turn as provided in subdivision (a) and shall complete the turn in any lane lawfully available to traffic moving in that direction upon the roadway being entered.

(3) Upon a highway having an additional lane or lanes marked for a right turn by appropriate signs or markings, the driver of a vehicle may turn right from any lane designated and marked for that turning movement.

(b) Left Turns. The approach for a left turn shall be made as close as practicable to the left-hand edge of the extreme left-hand lane or portion of the roadway lawfully available to traffic moving in the direction of travel of such vehicle and, when turning at an intersection, the left turn shall not be made before entering the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in that direction upon the roadway being entered, except:

(1) Upon a highway having three marked lanes for traffic moving in one direction which terminates at an intersecting highway accommodating traffic in both directions, the driver of a vehicle in the middle lane may turn left into any lane lawfully available to traffic moving in that direction upon the roadway being entered.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 742

An act to amend Section 710.5 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 710.5 of the Unemployment Insurance Code is amended to read:

710.5. (a) Notwithstanding the provisions of Section 709, any public agency, as defined in Section 3501 of the Government Code,

may elect to become an employer subject to Part 2 (commencing with Section 2601) of this division, with respect to all employees who are a part of an appropriate unit established pursuant to the provisions of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, provided such election is the result of a negotiated agreement between the public agency and the recognized employee organization, as such terms are defined in Section 3501 of the Government Code. The public agency employer also may elect to provide coverage to its management and confidential employees and to its employees who are not a part of an appropriate unit, but such election shall not be contingent upon coverage of other employees of the public agency employer.

Upon filing of such an election, the filing entity shall, upon approval by the director, become an employer subject to Part 2 (commencing with Section 2601) of this division to the same extent as other employers, and services performed by its employees who are subject to an election under this section shall constitute employment subject to such part. Beginning at that time, the public agency shall withhold from the wages of such employees the contributions required for unemployment compensation disability benefits.

(b) No public agency, as defined in Section 3501 of the Government Code, may file an election pursuant to this section after December 31, 1984, provided that this subdivision shall not affect any election made pursuant to this section before January 1, 1985.

(c) The department shall study the impact on the Disability Fund of elections made pursuant to this section and report its findings to the Legislature before January 1, 1984.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 743

An act to amend Section 7018.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 7018.5 of the Business and Professions Code is amended to read:

7018.5. The board shall prescribe a form entitled "Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a contractor thereunder, including the provisions relating to the filing of a contract concerning a work of improvement with the county recorder and the recording in such office of a contractor's payment bond for private work. Each contractor licensed under this chapter, prior to entering into a contract with an owner for work specified as home improvement or swimming pool construction pursuant to Section 7159 or 7167, shall give a copy of this "Notice to Owner" to the owner, the owner's agent, or the payer.

The notice contained in the contract form prescribed by Section 7159 or 7167 shall be deemed to meet the requirements of this section.

This section shall become operative on June 30, 1980.

CHAPTER 744

An act to add Section 37602 to the Food and Agricultural Code, relating to dairy products.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 37602 is added to the Food and Agricultural Code, to read:

37602. For commercial purposes, the name "jack cheese" may only be used to describe, or as an abbreviation for, "Monterey jack cheese" as that term is used in Section 37571 or "high moisture jack cheese" as that term is used in Section 37601.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 745

An act to amend Section 7512.4, 7514, 7521, 7523, and 7543.5 of, to add Sections 7526.5, 7538.10, 7538.11, 7538.12, 7538.13, 7543.7, 7550.6, and 7580.1 to, and to add Article 4.1 (commencing with Section 7548) to Chapter 11.5 of Division 3 of, the Business and Professions Code, relating to protection dog operators, and making an appropriation therefor.

[Approved by Governor September 7, 1982. Filed with Secretary of State September 8, 1982.]

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

SECTION 1. Section 7512.4 of the Business and Professions Code is amended to read:

7512.4. As used in this chapter, "licensee" means a person licensed under this chapter and includes, but is not limited to, private investigator, private patrol operator, protection dog operator, alarm company operator, and armored contract carrier.

SEC. 1.5. Section 7512.4 of the Business and Professions Code is amended to read:

7512.4. As used in this chapter, "licensee" means a person licensed under this chapter and includes, but is not limited to, private investigator, private patrol operator; protection dog operator, and armored contract carrier.

SEC. 2. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, protection dog operators, alarm company operators, and armored contract carriers and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or (subject to the provisions of subdivision (a) of Section 7514.1) employed by an armored contract carrier, or employed by an alarm company operator as an alarm agent must

meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code and Section 7514.1.

(f) Requiring each uniformed employee of a private patrol operator and each armored vehicle guard, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Requiring each alarm agent of an alarm company operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(h) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson or protection dog operator, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(i) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(j) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs which regulations shall be in addition to any regulations relating to protection dogs.

SEC. 2.5. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, protection dog operators, and armored contract carriers and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or (subject to the provisions of subdivision (a) of Section 7514.1) employed by an armored contract carrier, must meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code and Section 7514.1.

(f) Requiring each uniformed employee of a private patrol operator and each armored vehicle guard, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or protection dog operator, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(h) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(i) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs which regulations shall be in addition to any regulations relating to protection dogs.

SEC. 3. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee. For the purposes of this subdivision, a private investigator is any person, firm, company, association, partnership or corporation acting for the purpose of investigating, obtaining, and reporting to any private employer, its agent, supervisor, or manager, information concerning such employer's employees involving questions of integrity, honesty, breach of rules or other standards of performance of job duties.

This subdivision shall not apply to either of the following:

(1) A public utility regulated by the State Public Utilities Commission, or its employees.

(2) A theater exhibition business or its employees.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person, other than an armored contract carrier, who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of said purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he has been hired or engaged to protect, guard, or watch.

(d) An alarm company operator within the meaning of this chapter shall mean and include any business operated for any consideration whatsoever, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. "Alarm company operator," however, shall not include a business which merely sells from a fixed location or manufacture alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

(e) An alarm agent within the meaning of this chapter is a person employed by an alarm company operator whose duties include altering, installing, maintaining, moving, repairing, replacing, or servicing an alarm system. The term "alarm system" shall mean any assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

(f) An armored contract carrier within the meaning of this chapter is a contract carrier operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority.

(g) An armored vehicle guard within the meaning of this chapter is any person employed by an armored contract carrier who in the course of such employment carries a deadly weapon.

(h) A protection dog operator within the meaning of this chapter is any person who, for any consideration whatsoever, engages in business to furnish, or agree to furnish, or train, a protection dog for others. A "protection dog" means any dog trained to guard, protect, patrol or defend any premises, area or yard, or any dog trained to protect, defend or guard any person or property, with or without the necessity of direct human supervision.

SEC. 3.5. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee. For the purposes of this subdivision, a private investigator is any person, firm, company,

association, partnership or corporation acting for the purpose of investigating, obtaining, and reporting to any private employer, its agent, supervisor, or manager, information concerning such employer's employees involving questions of integrity, honesty, breach of rules or other standards of performance of job duties.

This subdivision shall not apply to either of the following:

(1) A public utility regulated by the State Public Utilities Commission, or its employees.

(2) A theater exhibition business or its employees.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person, other than an armored contract carrier, who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of said purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he has been hired or engaged to protect, guard, or watch.

(d) An armored contract carrier within the meaning of this chapter is a contract carrier operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority.

(e) An armored vehicle guard within the meaning of this chapter is any person employed by an armored contract carrier who in the course of such employment carries a deadly weapon.

(f) A protection dog operator within the meaning of this chapter is any person who, for any consideration whatsoever, engages in business to furnish, or agree to furnish, or train, a protection dog for others. A "protection dog" means any dog trained to guard, protect, patrol or defend any premises, area or yard, or any dog trained to protect, defend or guard any person or property, with or without the necessity of direct human supervision.

SEC. 4. Section 7523 of the Business and Professions Code is amended to read:

7523. (a) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any street patrol special officer or upon any person who furnishes street patrol service or street patrol special officers requiring registration with an agency to be designated by the city, county, or city and county, including in such registration full information as to the identification

and employment and subject to the right of the city, county, or city and county to allocate certain portions of the territory in such city, county, or city and county within which the activities of any such street patrol service or person shall be confined. Any city, county, or city and county may refuse such registration to any person of bad moral character and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(b) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any employees of a private patrol operator who are unable to furnish evidence of current registration pursuant to subdivision (f) of Section 7514.

(c) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from requiring private patrol operators and their employees or alarm agents or protection dog operators and their employees to register their name and a file copy of their state identification card with the city, county, or city and county. Except with regard to registration of protection dog operators, no fee may be charged nor may any application be required by the city, county, or city and county for such registration.

(d) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county from imposing reasonable additional requirements necessary to regulate and control protection dogs according to their local needs and not inconsistent with the provisions of this chapter.

(e) The provisions of this chapter which provide for the licensing and regulation of protection dog operators shall not apply to any city, county, or city and county which has adopted an ordinance for the licensing and regulation of protection dog operators which imposes requirements which are equal to or greater than those imposed by this chapter, as determined by the bureau upon application of the city, county, or city and county.

(f) Any city, county, or city and county which is not otherwise subject to the provisions of this chapter which provide for the licensing and regulation of protection dog operators, pursuant to subdivision (e), shall provide a current list of the names and addresses of the protection dog operators licensed by it to the bureau.

SEC. 4.4. Section 7523 of the Business and Professions Code is amended to read:

7523. (a) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any street

patrol special officer or upon any person who furnishes street patrol service or street patrol special officers requiring registration with an agency to be designated by the city, county, or city and county, including in such registration full information as to the identification and employment and subject to the right of the city, county, or city and county to allocate certain portions of the territory in such city, county, or city and county within which the activities of any such street patrol service or person shall be confined. Any city, county, or city and county may refuse such registration to any person of bad moral character and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(b) The provisions of this chapter shall not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from imposing local regulations upon any employees of a private patrol operator who are unable to furnish evidence of current registration pursuant to subdivision (f) of Section 7514.

(c) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of such city, county, or city and county from requiring private patrol operators and their employees or protection dog operators and their employees to register their name and a file copy of their state identification card with the city, county, or city and county. Except with regard to registration of protection dog operators, no fee may be charged nor may any application be required by the city, county, or city and county for such registration.

(d) The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county from imposing reasonable additional requirements necessary to regulate and control protection dogs according to their local needs and not inconsistent with the provisions of this chapter.

(e) The provisions of this chapter which provide for the licensing and regulation of protection dog operators shall not apply to any city, county, or city and county which has adopted an ordinance for the licensing and regulation of protection dog operators which imposes requirements which are equal to or greater than those imposed by this chapter, as determined by the bureau upon application of the city, county, or city and county.

(f) Any city, county, or city and county which is not otherwise subject to the provisions of this chapter which provide for the licensing and regulation of protection dog operators pursuant to subdivision (e), shall provide a current list of the names and addresses of the protection dog operators licensed by it to the bureau.

SEC. 4.5. Section 7526.5 is added to the Business and Professions Code, to read:

7526.5. An applicant for a license as a protection dog operator, owner or manager shall have had previous experience in training a protection dog for others, and shall take and pass an examination administered by the bureau.

SEC. 5. Section 7538.10 is added to the Business and Professions Code, to read:

7538.10. No person licensed as a protection dog operator shall do any of the following:

(a) Fail to maintain a record of the name, address, and commencing and termination date of employment, of each employee.

(b) Fail to certify proof of current and valid registration of all employees subject to registration.

(c) Sell, let, or train any protection dog that has not been immunized against rabies. Proof of immunization shall consist of a valid certificate of rabies vaccination and shall be provided to any person who in any way obtains a protection dog from a protection dog operator.

(d) Fail to have a current and valid certificate of rabies vaccination for every protection dog owned by the operator.

(e) Fail to register each protection dog which it handles or trains with the local animal control officer, the local law enforcement agency and with the state, city, county, or district fire department which has the responsibility for the prevention and suppression of fires in the area in which the protection dog operator does business.

(f) Fail to notify such appropriate local law enforcement agency and such appropriate fire department by mail not more than 15 days before a protection dog is sent on an assignment of the location and duration of such assignment.

(g) Print, or cause to be printed, any advertisement or brochure without including his or her protection dog operator's license number in the advertisement.

(h) Train a protection dog with the intent that the dog shall be engaged in an exhibition of fighting or knowingly sell or let a protection dog which is intended to be engaged in an exhibition of fighting.

(i) Fail to provide a protection dog confined in an enclosed area with an adequate exercise area. If the protection dog is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the dog from becoming entangled or injured and permit the dog's access to adequate shelter, food, and water.

SEC. 5.5. Section 7538.11 is added to the Business and Professions Code, to read:

7538.11. No person licensed as a protection dog operator or registered as employee of a protection dog operator shall do any of the following:

(a) Fail to transport a protection dog anywhere in a secure, humane manner that will reasonably prevent its possible escape.

(b) Fail to visit a protection dog which is on actual duty at least once every 12 hours to ensure that the dog's physical condition, its shelter, and its food and water supply are adequate, and if inadequate, shall do whatever may be necessary to correct or remedy the situation.

(c) Fail to accompany and remain with a protection dog which is assigned to duty in any portion of any business establishment which is open to the general public for the entire length of time that the protection dog is on duty.

(d) Knowingly overwork, or torture, torment, neglect, abandon, deprive of necessary sustenance or care, drink or shelter, beat, mutilate, or unjustifiably kill any protection dog. The words "torment" and "torture" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

SEC. 5.7. Section 7538.12 is added to the Business and Professions Code, to read:

7538.12. Each protection dog shall at all times wear an identification tag. The identification tag shall be provided by the protection dog operator who furnishes the dog for hire. The identification tag shall contain, but not be limited to, the name, address, and telephone number of the protection dog operator. The telephone shall be monitored 24 hours a day so that calls of the public may be received and answered.

The identification tag required by this section shall be in addition to any tag required or issued by any agency of government to show that a dog has been immunized or inoculated against disease.

SEC. 5.9. Section 7538.13 is added to the Business and Professions Code, to read:

7538.13. A protection dog operator shall furnish a statement containing the following to any person who in any way obtains a protection dog from the licensee: "Protection dog operators are regulated by the Bureau of Collection and Investigative Services, 1920 20th Street, Sacramento, CA 95814."

SEC. 6. Section 7543.5 of the Business and Professions Code is amended to read:

7543.5. If, upon investigation, the director determines a licensee, including a corporation, or registrant is in violation of Section 7538.6, 7538.7, 7538.10, 7538.11, 7538.12, 7538.13, or 7551.3 of this chapter, the director may issue a citation to such licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars ($1,000).

A citation or fine assessment shall inform the licensee or registrant that if he or she desires a hearing to contest the finding of a violation,

such hearing shall be requested by written notice to the director within 20 days of the issuance of the citation or assessment, as appropriate. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the licensee or registrant neither requests a hearing nor pays the assessed fine within 20 days of the assessment, the director shall suspend the license or registration of such person 30 days after the assessment.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

SEC. 7. Section 7543.7 is added to the Business and Professions Code, to read:

7543.7. The director may assess fines for the following acts only as follows:

(a) Violation of subdivision (a) of Section 7538.10; twenty-five dollars ($25) per violation.

(b) Violation of subdivision (b) of Section 7538.10; twelve dollars ($12) per violation for the first 10 violations and fifty dollars ($50) per violation for each violation thereafter.

(c) Violation of subdivision (c) or (d) of Section 7538.10; one hundred dollars ($100) per violation.

(d) Violation of subdivisions (e) and (f) of Section 7538.10; ten dollars ($10) per violation for the first 10 violations and twenty-five dollars ($25) per violation for each violation thereafter.

(e) Violation of subdivision (g) of Section 7538.10; one hundred dollars ($100) per violation.

(f) Violation of subdivision (h) of Section 7538.10; not to exceed five hundred dollars ($500) per violation.

(g) Violation of subdivision (i) of Section 7538.10; not to exeed five hundred dollars ($500) per violation.

(h) Violation of subdivisions (a) or (b) of Section 7538.11; not to exceed five hundred dollars ($500) per violation.

(i) Violation of subdivisions (c) or (d) of Section 7538.11; not to exceed one thousand dollars ($1,000) per violation.

(j) Violation of Section 7538.12; not to exceed one hundred dollars ($100) per violation.

(k) Violation of Section 7538.13; not to exceed twenty-five dollars ($25) per violation.

SEC. 8. Article 4.1 (commencing with Section 7548) is added to Chapter 11.5 of Division 3 of the Business and Professions Code, to read:

Article 4.1. Registration of Employees of Protection Dog Operators

7548. As used in this article the term "licensee" means a

protection dog operator licensed under this chapter.

7548.1. Every person employed by a licensee who engages in the providing, handling, training, and selling of protection dogs shall be registered with the director in the manner prescribed by this article.

7548.2. Every person entering the employ of a licensee shall file with the director an application for registration within three days after the commencement of such employment. "Within three working days after employment" means within 72 hours from the time an employee is first compensated by a licensee for services. No application is required to be submitted if the employee terminates employment within the three working days.

7548.3. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee prescribed in this chapter.

7548.4. The application shall be verified and shall include all of the following:

(a) The full name, residence address, telephone number, date of birth, and social security number of the employee.

(b) The name, address, telephone number, and license number of the employer and the date employment commenced.

(c) The signature of the employee.

(d) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(e) A statement as to whether the employee has been convicted of a felony.

7548.5. Managers who comply with other provisions of this chapter are not required to register under this article.

7548.6. Upon approval of an application for registration, the chief shall cause to be issued to the applicant at his or her last known residential address a registration card in a form approved by the director. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a two dollar ($2) certification fee, whereupon the bureau shall issue a certified replacement of the card.

7548.7. The director may refuse to register any employee, or may suspend or revoke a previously issued registration, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this chapter.

7548.8. (a) A registration shall expire on the 31st day of December of the second calendar year following the date of issuance, and every two years thereafter. At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, with the renewal fee as set forth in this chapter, for renewal of his or her registration.

(b) An expired registration may not be renewed.

(c) If the renewed registration card has not been delivered to the

registrant prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

SEC. 8.3. Section 7550.6 is added to the Business and Professions Code, to read:

7550.6. A person licensed as a protection dog operator or registered as a protection dog operator employee shall be deemed to be a licensee for the purposes of this article.

SEC. 8.5. Section 7580.1 is added to the Business and Professions Code, to read:

7580.1. The amount of fees prescribed by this chapter for protection dog operator licensees and registrants shall be as follows:

(a) An application fee for a protection dog operator license of twenty-five dollars ($25).

(b) An initial license fee and annual renewal fee for a protection dog operator license of two hundred fifty dollars ($250).

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

(d) A reexamination fee for an applicant or his or her manager of ten dollars ($10).

(e) A registration fee for a protection dog operator employee of twelve dollars ($12).

(f) A registration renewal fee for a protection dog operator employee of ten dollars ($10).

(g) A reinstatement fee for a protection dog operator license of an amount equal to the renewal fee plus the delinquency fee.

SEC. 9. This act shall become operative on July 1, 1983.

SEC. 10. It is the intent of the Legislature, if this bill and Senate Bill 673 are both chaptered and become effective January 1, 1983, both bills amend Sections 7512.4, 7514, 7521, and 7523 of the Business and Professions Code, and this bill is chaptered after Senate Bill 673, that the amendments to Sections 7512.4, 7514, 7521, and 7523 proposed by both bills be given effect and incorporated in Sections 7512.4, 7514, 7521, and 7523 in the form set forth in Sections 1.5, 2.5, 3.5, and 4.4 of this act. Therefore, Sections 1.5, 2.5, 3.5, and 4.4 of this act shall become operative only if this bill and Senate Bill 673 are both chaptered and become effective January 1, 1983, both amend Sections 7512.4, 7514, 7521, and 7523, and this bill is chaptered after Senate Bill 673, in which case Sections 1, 2, 3, and 4 of this act shall not become operative.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.